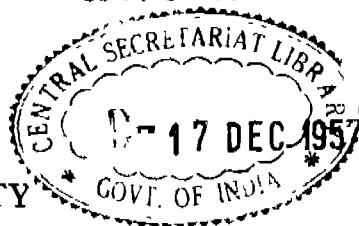


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No. 579] NEW DELHI, WEDNESDAY, DECEMBER 11, 1957/AGRAHAYANA 20, 1879

## ELECTION COMMISSION, INDIA NOTIFICATION

*New Delhi, the 27th November 1957/6th Agrahayana, 1879 Saka*

S.R.O. 3913.—Whereas the election of Shri Tellakula Jalayya, Chowtra Street, Guntur, as member of the Legislative Assembly of the State of Andhra Pradesh from the Guntur I constituency of that Assembly, has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri N. V. L. Narasimha Rao, Barrister-at-Law, Guntur;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, RAJAHMUNDRY (ANDHRA)

*Monday, the 28th day of October 1957*

PRESENT

Sri T. H. M. Sadasivayya, M.A., B.L.—*Chairman.*

Sri C. Narasimhacharyulu, B.A., M.L.—*Judicial Member.*

Sri M. Sitaramayya, B.A., B.L.—*Advocate Member.*

ELECTION PETITION No. 10 OF 1955  
(Guntur No. I Assembly Constituency)

BETWEEN

Sri N. V. L. Narasimha Rao, Barrister-at-law, son of Ramayya Pantulu, aged about 62 years, Brahmin, Guntur.—*Petitioner.*

AND

1. Sri Tellakula Jalayya, son of Viraswami, Vysya, Trader, aged about 55 years, Chowtra Street, Guntur.

2. Sri D. V. Apparao, son of Venkateswarlu, aged 35 years, Vysya, Trader, Kothapeta, Guntur.

3. Sri M. A. Khader, Advocate, High Court of Andhra, father's name not known, Muslim, Nagarampalem, Guntur.

4. Sri T. Amrutarao, father's name not known, Christian, aged about 30 years, Arundelpet, Guntur.—*Respondents.*

Petition dated 7th June 1955 under section 81 of the Representation of the People Act, XLIII of 1951, praying that the election of the 1st respondent be declared to be void and to order costs of this petition, and to grant such other and further relief or reliefs as the Election Tribunal deems fit and proper under the circumstances.

This petition coming on for hearing before this Tribunal on Wednesday (21st March 1956), Friday (5th April 1957), Saturday (6th April 1947), Tuesday (9th April 1957), Wednesday (10th April 1957), Thursday (11th April 1957), Friday (12th April 1957), Monday (22nd July 1957), Tuesday (23rd July 1957), Wednesday (24th July 1957), Thursday (25th July 1957), Friday (26th July 1957), Saturday (27th July 1957), Monday (29th July 1957), Tuesday (30th July 1957), Thursday (22nd August 1957), Friday (23rd August 1957), Wednesday (18th September 1957), Thursday (19th September 1957), Friday (20th September 1957), Saturday (21st September 1957) and Wednesday (16th October 1957); upon perusing the petition, list of particulars filed by the petitioner, written statements of respondents 1 and 3 and other material papers on record; upon hearing the arguments of Sri P. S. T. Sayi, Counsel, and Sri C. Suryanarayana Murty, Advocate for the petitioner, and of Sri G. V. Raghavayya, Sri Y. Sambamurty and Sri K. V. Reddy, Advocates for the 1st respondent; the 3rd respondent and his advocate Sri B. V. Subbayya, being absent at the time of arguments; respondents 2 and 4 having allowed the petition to proceed *ex parte*; and the petition having stood over to this day for consideration, the Tribunal delivered the following:

### JUDGMENT

Sri N. V. L. Narasimha Rao, Barrister-at-law, a legal practitioner of Guntur, files this petition purporting to be under Secs. 80 and 81 of the Representation of the People Act (XLIII of 1951) (hereinafter referred to as the Act) praying *inter alia* that the election of Sri Tellakula Jalayya (1st respondent) to the Andhra Legislative Assembly may be declared void.

2. General election to the Andhra Legislative Assembly for Guntur No. 1 Constituency was held on 18th February 1955. Besides the petitioner and the 1st respondent, three more candidates, *viz.*, Sri D. V. Apparao, Sri M. A. Khader and Sri T. Amrutarao (respondents 2 to 4), were duly nominated to contest the election. While the petitioner, a Brahmin, represented the Praja Socialist Party in the said election, the 1st respondent had been set up by the United Congress Front and he is one of the leading members of the Vysya community. The 2nd respondent is also a Vysya resident of Guntur and he is a nominee of the Communist Party. The 3rd and 4th respondents belonging respectively to Muslim and Christian communities contested the election as Independent candidates. The polling in this constituency was held on 18th February 1955 and the counting of votes took place on 1st March 1955 with the following result:—

1st respondent	..	13,431 votes
2nd respondent	..	11,998 "
Petitioner	..	9,139 "
3rd respondent	..	6,472 "
4th respondent	..	418 "

The last two candidates forfeited their deposits and the 1st respondent having secured the largest number of votes, was duly declared elected on 1st March 1955. The said declaration has been published in the *Gazette of Andhra*, dated 7th March 1955. The lodging of the return of election expenses by the 1st respondent together with his declaration was published in the *Gazette of Andhra*, dated 2nd June 1955 and the scrutiny of the said return was granted on 6th June 1955. The petitioner now contends that the election of the 1st respondent is void and is liable to be set aside on the various grounds set out in his petition.

3. It is urged as the first ground that the 1st respondent by himself and through his agents committed the corrupt practice of bribery in the form of:—

- (a) paying and promising to pay large sums of money to individuals and associations, offering house-sites and other kinds of gratification to a large number of voters to induce them to vote for him and also as a reward for having voted and having procured votes for him;
- (b) entertaining electors with sweets and tea at various places with the object of securing their votes; and
- (c) including Sri M. A. Khader, the 3rd respondent herein, to stand for the election and not to withdraw from the contest.

4. Secondly, it is averred that the 1st respondent by himself and through his agents committed the corrupt practice of undue influence and thus interfered with the free exercise of the electoral right of the electors by having it preached systematically that the Divine displeasure of the Deity Sri Kanyakaparameswari will descend upon all those Vysya voters who did not vote for him. The Vysya voters were threatened by the 1st respondent and his agents with social ostracism. The Muslim agents of the 1st respondent made appeal to the religious sentiments of the Muslim voters to vote for the 3rd respondent, who is a Muslim candidate.

5. The third ground relates to the alleged publication of false statements relating to the personal character and conduct of the petitioner, which, according to the petitioner, were reasonably calculated to prejudice the prospects of his election and had actually resulted in a large number of electors being misled. As the fourth ground it is contended that the 1st respondent connived at the removal of ballot papers during the polling hours outside the polling stations in order to obtain such papers from those persons and to make use of them for the benefit of the 1st respondent by manoeuvring to get them placed inside the ballot boxes assigned to him. Next, it is averred that the 1st respondent and his agents hired and procured vehicles for the conveyance of electors to the polling stations and back to their places.

6. The most important ground urged in the petition relates to the return of election expenses lodged by the 1st respondent, which, according to the petitioner, is false in material particulars. The said return was lodged beyond the limitation of time prescribed by the Act.

7. It is further averred in the petition that during the previous election 75 per cent. of the Muslim voters voted in favour of the petitioner and contributed to his success. The 1st respondent realising that his chances of success were few, induced the 3rd respondent, who is a Muslim and who belongs to a different District, to file his nomination, falsely promising to secure for him the support of the Congress Party and other kinds of gratification. When the 3rd respondent realised that the said promises were made by the 1st respondent's agents and partisans for ulterior purposes and when he learnt that the top leaders of the Congress had already selected the 1st respondent as a party candidate, he wanted to withdraw from the contest. But he

was, however, beguiled into continuing the contest. Intensive and incessant appeals were made to the religious feelings of the Muslims by the agents of the 1st respondent with his connivance. If the 3rd respondent had not been made to contest the election, most of the Muslim electors would have voted for the petitioner as they did before and the petitioner would have obtained a majority of the valid votes. As a result of the systematic appeal made to the religious feelings of the electors, the voters of the Vysya community were led to vote for the 1st respondent and several voters of the Brahmin community refrained from exercising their franchise. Thus, on account of the corrupt practices indulged in by the 1st respondent, the result of the election has been materially affected. The petitioner also prayed for general scrutiny and recount of votes alleging that as the scrutiny of votes was done by a large number of assistants of the Returning Officer it was physically impossible for him and his counting agents to note the particulars of the votes that were improperly accepted.

8. The Communist candidate (respondent 2), who is the runner up in this contest, having secured the next largest number of votes, and the Independent candidate (respondent 4) allowed the enquiry to proceed *ex parte*.

9. The Muslim candidate (respondent 3), denies in his written statement the allegations in the petition so far as they relate to him. According to the averments made in his written statement, neither the 1st respondent nor his agents nor his partisans ever induced him either to contest the election or not to withdraw from the contest. No promises were ever made to him. Nor was he beguiled into continuing the contest. It is not true to say that this respondent is a native of Nellore District. He left the district for good and had settled down at Guntur, with which city he had intimate connection for about a decade. His father-in-law and brother-in-law and other relations are well to-do and leading citizens of Guntur, being tobacco exporters, jewellers and businessmen. This respondent honestly and sincerely believed that he had good chances of success in the election if he were to get the Congress ticket. But the Congress party chose one Sri Maddi Sudarsanam of Guntur to represent that party in the election. Consequently this respondent gave up the idea of contesting the election as he believed that Sri Maddi Sudarsanam was a better choice. But subsequently he came to know that Sri Maddi Sudarsanam was not going to contest the election and that the 1st respondent had filed his nomination papers before the Returning Officer. Honestly believing that he would be a better choice than the 1st respondent, this respondent also filed his nomination before the Returning Officer and renewed his efforts to get the Congress ticket. But eventually the Congress ticket was given to the 1st respondent by the Andhra Pradesh Congress Committee despite the advice of the Congress Central Parliamentary Board. On account of the injustice done to him by the Pradesh Congress Committee in brushing aside the advice of the Central Parliamentary Board, this respondent contested the election seriously and sincerely as an Independent candidate to record his protest against the injustice done to him. Nobody ever beguiled this respondent to stand for the election nor did anybody raise hopes in him or induce him to contest the election or to continue to contest. It is wrong to say that every Muslim who exercised his franchise voted for this respondent. On the other hand, this respondent has reason to believe that discriminating voters from all communities voted in his favour. No appeal was ever made to the religious sentiments of the Muslim voters, nor was any threat of a social nature held out to them. No religious symbols were used for election purposes and all the allegations of communal nature made in the petition are false and baseless.

10. Sri Tellakula Jalayya, who is the main contesting respondent in this proceeding, vehemently denies the allegations made in the petition against him with regard to the alleged corrupt and illegal practices. While adverting to the

avermments made in the petition and in the list of particulars in Part I of the Schedule relating to his selection as a Congress candidate, the 1st respondent pleads that those averments as well as references to Sri B. Gopala Reddi as the Finance Minister of the composite Madras State are all untrue and irrelevant for the purpose of this proceeding. He averred that it is vanity and self importance that has made the petitioner imagine that nobody came forward to stand as a Congress candidate in Guntur against him and the past failures of the petitioner in the Assembly as well as in the local elections give the lie direct to this assumption. With regard to his own antecedents, he states that he acted as Municipal Chairman of Guntur for nearly a decade and rendered considerable public service to that town and enjoyed in full measure the good will of the citizens of this enlightened constituency. The narrow success of the petitioner in the general elections of 1952 was essentially due to the acute dissensions in the ranks of the Andhra Pradesh Congress resulting in its disruption and also the need felt by the electors to avoid success of the Communists who were till then wedded to the cult of violence. The petitioner could secure only 6 seats out of 34 seats for his party as against 22 seats secured by the United Congress Front in the Municipal elections held in 1952. Out of 4 Muslims that the petitioner had set up in the Muslim area, only one Muslim candidate succeeded while the three other nominees of the petitioner were routed by the Muslim candidates belonging to the party of this respondent. It is not true that Sri Maddi Sudarsanam had any hand in the selection of this respondent or that he promised to finance him. Sri Hanumayya Chowdari was not directed to act as this respondent's agent in any manner. It is not true that any of them formed into a group or that Sri Salam or Sri Chandni Mastan acted as his agents or were deputed to set up the 3rd respondent. The 3rd respondent, who is an advocate of the High Court of Andhra, has rich and influential connections in Guntur. He was not set up by anybody to subserve the interests of this respondent. Even after the selection of this respondent as a Congress candidate by the Andhra Provincial Congress Committee, the 3rd respondent made mighty efforts to get himself nominated for the Town Congress seat, displacing this respondent, and some of the leading Muslims of Guntur left no stone unturned to have the selection of this respondent set aside. Even thereafter, many leading Muslims worked only for the success of the 3rd respondent. The 4th respondent, who is a Harijan, openly withdrew in favour of the 3rd respondent. If the 3rd respondent secured a larger percentage of votes in the Muslim areas, it was essentially due to the social set up and the economic trends of the electorates in those areas and he might have attracted more Muslim voters on account of his high education, status and clean antecedents. It is fantastic to suggest that this respondent canvassed for the 3rd respondent in the Muslim areas and for the 2nd respondent in the Vysya areas. The allegations regarding the alleged bribery and undue influence are all false, invented merely to trot out a case that corrupt practices extensively prevailed. This respondent is not aware of any of the collections said to have been made by Sri Raghuramayya, M.P. The said Sri Raghuramayya did not pay any money to this respondent at any time during the election period in question.

11. The petitioner has pressed into service certain acts, for which the entire Municipal Council, Guntur, of which the petitioner and five of his group are also members, the Commissioner as its Executive Officer, and other Government functionaries were responsible, by twisting and giving a colour of corrupt practice in respect of the same. It is not true that this respondent or any of his agents ever offered or paid any money to the residents of *Sambasivapeta* or promised to influence the Collector or to provide alternative sites, or, as a last resort, to give this respondent's site for their occupation. It is not true that the site intended for *Harijans* was diverted for the occupation of these voters or that any invidious distinction was made in the allotment of the plots, favouring only those voters who voted for this respondent. It is malicious to allege that

the residents who voted for the other candidates were excluded from the list of persons who were allotted sites by the Municipality. This respondent had no hand whatsoever in the acquisition of lands or in the distribution of sites. It is the Communist candidate, i.e., the 2nd respondent, that obtained the largest number of votes in this area. This respondent represented *Sangadigunta* ward in the Guntur Municipal Council continuously since 1930 without any break and every rival candidate set up by the petitioner against this respondent forfeited his deposit on all occasions. It is not true that this respondent gave a donation of Rs. 500 for the construction of any temple by the washermen. He is not aware as to when exactly the construction of the temple was begun and when the deity was installed. This respondent did not pay Rs. 800 or any other sum to the washermen living in the 16th locality as gratification for securing their votes. Nor did he get electric lights put up in that locality. The allegation that the votes of the washermen of Koritapad area were procured by this respondent by paying cash of Rs. 5 per head and also by a promise of a *Dhobykhana* near Pichikalagunta is another invention of the petitioner. The construction of a *Dhobykhana* in this area was engaging the attention of the Municipality since 1953 and the petitioner and the members of his group also participated in several of the resolutions relating thereto. It is false to allege that this respondent paid Rs. 500 to Adavi Hanumantha Rao to procure the votes of his community. Nor is it true that he deposited Rs. 800 or any amount with M. Kotayya to procure the votes of *Vadderas* working in his firm. This respondent did not even visit this booth on the polling day as the area covered by it was, in fact, a communist stronghold. Most of the members of the *Sapthaham Sangham* belong to the petitioner's community and they must have voted for the petitioner himself. This respondent did not promise any gratification to the members of this Sangham to secure their votes. It is not true that this respondent treated the voters with tea and refreshments at the time of the opening of the offices in the town. The allegation that this respondent promised any settlement of the house dispute relating to Dr. Chelapathi Rao and such other inducements are all false. The office in Brodiepet was opened by the Town Congress Committee, Guntur, on its own responsibility to attend to its work in the constituencies Nos. 1 and 2 covered by the Guntur Town and Taluk.

12. The allegations that this respondent and other leading Vysyas of Guntur made systematic appeals to their community or that flags were flown on the *Gopuram* of Sri Kanyaka Parameswari temple or that he exhibited the national symbol over the election office in the choultry or temple are wholly devoid of truth. The petitioner also had on his side many Vysyas who assisted him in his election campaign by speeches and also by publication of pamphlets. Several of them worked as his election agents on the polling day. The 2nd respondent is also a Vysya and neither he nor his party would have countenanced or taken lying if any threats of divine displeasure or social ostracism were invoked by this respondent or by anyone on his behalf. If certain leading and respectable residents of Guntur town took any part in the election campaign, it was not because of any particular attachment to this respondent, but they along with the vast Andhra electorate felt the need for a stable Government and desired to prevent the coming into power of minor or opportunist parties out to create obstruction to orderly and progressive Government. They never acted as agents of this respondent in any sense of the term or went out of the way to be directly or indirectly responsible for any corrupt practices. This respondent is not responsible for the publication of the various pamphlets referred to by the petitioner in his petition, nor were they published at his instance or with his connivance. It was not a secret to the voters of Guntur that the petitioner had drifted away from Sri T. Prakasam and his party, gave battle to him on crucial occasions in the Andhra State Assembly and finally voted him down from power, necessitating fresh elections in the State. Sri T. Prakasam rejoined the congress

and contested a seat at Ongole as a Congress nominee. The petitioner and his co-workers carried on incessant propaganda that Sri Prakasam favoured his candidature and thus canvassed votes in his name. This created confusion and a slur on the grand old Andhra leader and this perhaps led Sri T. Venkatarao and others to controvert the false slogan raised by the petitioner. This respondent is not personally aware of the facts averred in the pamphlet and those who subscribed to the pamphlet did so on their own account and not at the instance or advice or even the knowledge or connivance of this respondent prior to such publication. If any slight stir had been caused by the publication of this pamphlet, the petitioner and his agents neutralised the same by their own counter leaflets. No personal attack was ever made on the petitioner. This respondent never got printed, published or distributed in his constituency any pamphlet bearing the national symbol, *Ashoka Chakra*, appealing to people to vote for the same. The Andhra Pradesh Congress Committee, the Congress Central Election Committee, Vijayawada, the Guntur District Congress Committee and the Guntur Town Congress Committee were publishing their own election literature from time to time. If any such pamphlets were printed or distributed by any such agent, over which this respondent has no control, it is for the petitioner to prove as to who published the same, the context in which they were published and that this respondent was in any way responsible for such publication or distribution or that he or any one on his behalf connived at such publication. This respondent had issued definite instructions to every Press in which he had his election literature printed that they should print the name of the Press and the Printer therein. If in any particular circular there was any such omission, it is contrary to the specific instructions issued by this respondent. It is false to allege that any ballot papers were removed during polling hours outside the polling station or that any such papers were misused for the benefit of this respondent and replaced in the ballot boxes. It is also false to allege that this respondent or his agents hired and procured vehicles for the conveyance of electors to the polling stations and back to their places.

13. The expenditure of Rs. 2,259-9-0 covers the period prior to and also on the polling day. There were 102 booths arranged in the entire constituency, each booth having polling and relief agents and about 4 persons in the vicinity of each booth engaged for providing information on slips to guide voters. The polling hours were from 7 A.M. to 12 NOON and from 1 P.M. to 5 P.M. These agents and workers had to be brought and kept ready, relieved and taken home and brought back at intervals in time from several areas in the city. Several others had to convey information from the various booths to this respondent tracing his movements, to keep him informed of the conditions of polling in the many areas of the constituency, comprising almost the entire town. As such 12 taxi cars cannot be said to be beyond the legitimate needs on a hectic polling day. There was no need for this respondent to raise subscriptions to finance his election campaign. In 1951 he had domestic dissensions with his nephew and partner Sri Sambasivarao, whom the petitioner had weaned away for his faction purposes. That resulted in litigation. The petitioner himself has been indebted to this respondent for the last 20 years, having borrowed even huge amounts now and then, and even today he continues to be his debtor. This respondent has no knowledge of the bewildering averments that Sri S. K. Patil and Sri U. N. Dhebar brought any amounts or distributed the same in his constituency. He did not receive any money from any source, and as such, there is nothing to be shown under the receipts column in the return of election expenses. He spend his own money for the election and the return furnished by him is correct. He lodged his return of election expenses before the Returning Officer in proper time as required by the Act and the rules framed thereunder. It is not correct to allege that the scrutiny of votes was not properly done by the Returning Officer or his assistants or that necessary opportunities

were not afforded to the petitioner or his agents at the time of the counting. The petitioner's plea for general scrutiny and recounting is uncalled for and unjustified.

14. The petitioner by his acts of omission and commission wrote himself down gradually in the estimate of the discerning public of Guntur, as he voted for Kurnool as capital against their unanimous demand for Guntur or Vijayavada, as he later put forward the theme that the High Court should be in Anantapur and the capital at Vizagapatam and as he finally joined the forces of disruption and voted down the government from power. When the top leaders of various parties in India called for a United Front and every major political group agreed to it, the petitioner ploughed a lonely furrow and the electorate felt he failed them at crucial times and gave their clear verdict. This respondent succeeded in the election on account of the large measure of good will that he enjoys in this constituency, the prestige of the Indian National Congress (as seen from the sweeping success it had throughout the State), the determined urge of the electorate for a stable and orderly Government for the infant State of Andhra and the lack of faith in the programme of the dwindling parties like the one represented by the petitioner. The result of the election was not materially affected by any of the alleged corrupt practices or illegal practices. The fact that neither the 2nd respondent, who is a close runner-up nor his Communist party with its relentless drive and pronounced hatred for the Congress, did not choose to make any allegations or question the election of this respondent, affords one test that the petitioner's grievances are unreal and the accusations are made out of a frustrated feeling of defeat and revenge against him. The election in this constituency was completely free and fair.

15. The following issues were framed after hearing both the parties:—

1. Whether the voters in Sambasivapeta, locality No. 10 in Guntur Town mentioned in paragraph (1) part (1) of the list of particulars were influenced and made to vote for the 1st respondent?
2. Whether the 1st respondent donated Rs. 500 for the construction of a temple at Sangadigunta and influenced the washermen voters mentioned in para. 2 of the petition to vote for him?
3. Whether the washermen voters living in 16th locality in Guntur town mentioned in paragraph 3 of the petition were influenced to vote for the 1st respondent by the following means:—
  - (i) by paying a sum of Rs. 800 to their Association called Guntur Pattana Rajaka Sangham?
  - (ii) by inducing the Chairman of the Guntur Municipality, Sri Venkatarao to put up electric lights in that locality?
  - (iii) by getting undue influence over the President and Secretary of the said Rajaka Sangham who were employees of the Andhra Bank Ltd. through Sri Maddi Sudarsanam, who is a Director of the Bank and also accredited agent of the 1st respondent in the election?
4. Whether the washermen voters in the 4th locality called Koritipadu were procured by the 1st respondent by promising to construct the *Dhobykhana* near Pichikalagunta?
5. Whether the voters mentioned in sub-paragraph 7 were procured by the 1st respondent by bribing them in the shape of cash?
6. Whether the 1st respondent procured the vote of Dr. Chalapathirao and the votes of others by treating them with tea and other refreshments and also by promising him that a civil matter pending



before the District Court, Guntur, would be settled and whether the said Chalapathirao was an agent of the 1st respondent in the election?

7. Whether the 1st respondent and his agents, Messrs. Sudarsanam, Venkatarao and Audinarayana Gupta procured the Vysya voters relating to Chowtra, Chalamayya choultry and Dandayya Pantulu polling booths by systematically appealing to them to vote for the 1st respondent on grounds of caste and community, viz., that they are Vysyas?
8. Whether the 1st respondent and his agents Messrs. Sudarsanam, Venkatarao and Audinarayana Gupta procured the Vysya voters relating to Chowtra, Chalamayya choultry and Dandayya Pantulu polling booths by systematically appealing to them through the national symbols like *Ashoka Chakra* and the Indian National Flag?
9. Whether the 3rd respondent procured any Muslim votes by appealing to their community feelings and whether this has in any way materially affected the election of the petitioner?
10. Whether the pamphlets mentioned in Part 3 of the list of particulars were published by the 1st respondent or his agents, whether the contents of these pamphlets are false to the knowledge of the 1st respondent or his agents and whether the publication and distribution of these pamphlets have prejudiced the prospects of the petitioner in the election?
11. Whether the 1st respondent hired and procured the vehicles mentioned in Part 5 of the list of particulars for the conveyance of voters to the polling stations?
12. Whether the return of the election expenses shown by the 1st respondent is false in material particulars?
13. Whether the 1st respondent received the donations mentioned in paragraph 6 of the list of particulars and utilised the money for his election expenses?
14. Whether there was any delay in filing the election returns and whether it vitiates the election of the 1st respondent?
15. Whether the result of the election is materially affected for all or any of the reasons mentioned in the petition?
16. Whether the election is void by reason of the alleged corrupt practices mentioned in the petition?
- 16 (a). Did the 1st respondent gift 4 bags of rice and pay Rs. 200 as gratification to Sri Chalapathirao on behalf of Sapthaham Sangham situate in Gopalaswami Street of old Guntur and thus procure the votes of the members of the said Sangham? Was any gratification paid to anybody as a reward for having voted for the 1st respondent?
- 16 (b). Did the 1st respondent deposit Rs. 800 with one Mattapalli Kotayya to procure the votes of *Vadderas* as mentioned in item (6) of Part I of the list of particulars?
17. To what relief?

16. *Issue (1)*—This issue relates to the alleged major corrupt practice of bribery said to have been indulged in by the 1st respondent and his agents to secure the support of the voters residing in locality No 10 in the Guntur Municipality, locally known as *Sambasivapeta*. In Ex. A12, the list of various polling stations for Guntur No. 1 Constituency, this 10th locality is referred to as items 47 and 18, and adjoining this locality there is the 11th locality locally known as *Rajagari Thota*, which comprises items 49 and 50 in the list of polling stations.

17 It is the case for the petitioner as set out in para. 4 (1) (a) of his petition that the 1st respondent offered house-site to the residents of these localities and thus induced them to vote for him. The particulars of this alleged corrupt practice are set out in Part I (1) of the list of particulars appended to the petition and, according to the averments made therein, there is an extensive vacant site in this locality, which was recently acquired by the Government for the purpose of extending the Headquarters Hospital building at Guntur. Some years ago several poor persons put up small huts and have been squatting there. They subsequently got themselves enrolled as voters. On the eve of the general elections in 1955, the Revenue authorities served upon them eviction notices pursuant to their acquisition proposals calling upon them to remove their huts. While the electors of that area were in this predicament, the 1st respondent and his accredited agent Sri Gunguntla Venkatarao, who was then the Chairman of the Municipal Council, and Toluchuri Nagabhushanam, a Municipal Councillor, offered to pay each of these voters a sum of Rs. 5 as gratification for recording their votes in favour of the 1st respondent. They also promised to use their influence with the Collector to see that they were not evicted from that site. They further undertook to provide alternative sites for them. In the event of their not securing for them alternative sites, the 1st respondent volunteered to give them his own site near the B.I.T. Factory, Guntur, for the purpose of putting up their huts therein. On payment of Rs. 5 per head those electors were induced to fly Congress flags over their huts even 10 days before the polling. Consequently, the authorities concerned refrained from executing their orders of eviction. But contrary to the expectations of the 1st respondent and his agents, the Revenue authorities were obliged to take action for removing the said huts expeditiously on account of the pressure brought to bear upon them by the Medical Department. Thereupon, the 1st respondent and Sri Venkatarao in his capacity as Chairman of the Municipal Council applied to the Collector for granting some time to these squatters for the removal of their huts. On the Collector refusing to give any further time, the 1st respondent and the Chairman of the Municipal Council resolved to divert another site, for the benefit of these squatters, though that site was intended to be acquired for Harijan labourers residing at road margins and the acquisition proceedings in respect of it have been pending with the Revenue authorities for the last 3 years. The voters of the 10th locality were directed by the 1st respondent and the Chairman to occupy the said site even before the sanction of the Municipal Council was obtained. This was done in pursuance of their previous promise and as a reward for their having voted for the 1st respondent in the general election.

18. Toluchuri Nagabhushanam, the agent of the 1st respondent, and his brother were also allotted sites by way of reward for not only giving their votes to the 1st respondent but also for acting as his agents and for procuring votes for him. The 1st respondent and the Chairman got a list prepared by the said Nagabhushanam and in that list were included only those voters who had been previously promised to be provided by the 1st respondent in the said site. This was in defiance of the instructions issued by the Revenue Divisional Officer in his letter dated 9th April, 1954, wherein he had categorically stated that the said site, which had been acquired at a cost of Rs. 25,000 had not been intended for the said purpose. With a view to overawe the said Revenue Divisional Officer,

the 1st respondent and the Chairman requested the then Revenue Minister of the Andhra State, who is also a member of the Congress Party, to perform the opening ceremony of the said colony. They also presented a memorandum to the Minister complaining against the Collector and his subordinates for not catering to the behests of the 1st respondent and his agent, the Chairman. Immediately after the opening ceremony was performed, the 1st respondent and the Chairman offered the said site, which is about 5 acres in extent, to T. Nagabhushanam and his brother and also to his nominees and put them in possession of the same as a reward for having voted for the 1st respondent in the election. Such of the voters as have not supported the 1st respondent's candidature were asked by the 1st respondent to drift for themselves. The names of about 23 such voters is listed out and it is alleged that the votes of those 23 persons were procured by the 1st respondent by this means.

19. The 1st respondent stoutly denies all these allegations in para. 4(a) of his statement and contends that the petitioner has pressed into service certain acts, for which the entire Municipal Council, Guntur, of which the petitioner and five members of his group are also members, the Commissioner as its executive officer and other Government functionaries were responsible, by twisting and giving a colour of corrupt practice in respect of the same. Neither the 1st respondent nor any of his agents paid or offered to pay any money to the residents of *Sambasivapeta*, nor did they ever try to influence the Collector. They never promised to provide alternative sites for the electors of this area. The allegation that a site intended for *Harijans* was diverted for the occupation of these voters and that an invidious distinction was made in the allotment favouring only those voters who voted for the 1st respondent are false and malicious, the petitioner having improvised a chronology of events to prove his case, which stands disproved by the records. It is malicious to allege that the residents of this locality who voted for other candidates were excluded from the list of persons who were allotted sites by the Municipality. On the other hand, several voters who supported the petitioner and respondents 2 and 3 got the sites. This respondent had no hand whatsoever in the acquisition or in the distribution of sites as alleged by the petitioner. This locality being a strong Communist centre, it was the Communist candidate, i.e., the 2nd respondent, that obtained largest number of votes in this area.

20. To sustain a charge of bribery, it is incumbent on the aggrieved party to establish beyond reasonable doubt that a candidate or his agent or any other person with the connivance of the candidate or his agent offered or promised any gratification to any person whomsoever with the object, directly or indirectly, of inducing an elector to vote or refrain from voting at an election. The term 'gratification' is not restricted to pecuniary gratification or gratifications estimable in money. It includes all forms of entertainment and all forms of employment for reward. A mere offer is sufficient to constitute this offence, though naturally stronger proof would be required in the case of a mere offer. That offer must be proved to have been made with the intention of inducing the elector to vote. It is also essential that corrupt intention should be proved. As the indictment of bribery is a criminal charge, the evidence in support of it must be such as would sustain a conviction on a criminal charge.

21. We have now to see whether and how far the petitioner has been able to discharge the heavy onus of proof cast on him. According to the evidence of the petitioner, who examined himself in this proceeding as P.W. 1, there is a vacant space locally known as *Rajagari Thota* in the heart of Guntur Town and a portion of it is called *Sambasivapeta*. The total extent of this site is 20 acres. Certain poor people who had no habitation of their own raised huts in that locality and have been living there for the past 20 to 25 years. About 800 of such squatters are registered as voters. As the State Government wanted to

acquire that site for extending the Headquarters Hospital building, the Revenue authorities issued notices to the occupants to vacate the sites, at the same time recommending to the Municipal Council to acquire alternative sites for accommodating the squatters. Even as early as on 28th June, 1952, the Municipal Council passed a resolution as per Ex. A7(a) accepting the offer of one M. Bapayya to sell his land in Israelpeta to the Municipality at Rs. 5500 per acre. But the Collector of Guntur in his Proceedings L. Dis. No. 14762/1952, dated 31st December, 1952 (Ex. A6) informed the Municipal Council that the rate offered was higher than the market value and suggested that the said site might be acquired under the land acquisition proceedings. Pursuant to this direction by the Collector, the Municipal Council passed a resolution, Ex. A6(a), dated 28th January 1954, to acquire under the provisions of the Land Acquisition Act the land belonging to Bapayya covered by R.S. No. 457 measuring Ac. 5-32 cents, and to request the Collector to expedite the said acquisition. But there appears to have been some delay in the acquisition proceedings though the notice under s. 6 of the Land Acquisition Act with regard to the intention of the Government to acquire this R.S. No. 457, was published in the Andhra Gazette as per Ex. B54, dated 9th December, 1954 and notices under section 5-A of the Act (Exs. B19 to B21) were issued to the various squatters in May 1953.

22. In a meeting of the Municipal Council held on 29th March 1955 it was finally resolved to meet the cost of the acquisition of the said R.S. No. 457 (Ac. 5-32 cents) on the Mangalagiri Road to provide alternative accommodation to the squatters of the Guntur Town and, pursuant to this resolution, the Municipal Commissioner sent to the Acquisition Officer, i.e., the Revenue Divisional Officer, Guntur, a cheque for Rs. 24,472/- dated 30th March 1955 towards cost of the acquisition, with a covering letter Ex. B25. He also requested the Revenue Divisional Officer by letter dated 13th April 1955, a copy of which is marked as Ex. B24, to supply the Municipal Council with a list of persons residing in *Rajagari Thota* and "recently evicted" from that site. From the letter Ex. B27 dated 7th April 1955 from the Municipal Chairman to the Revenue Divisional Officer it is learnt that all the squatters on *Rajagan* garden having been evicted from that site, the Municipal Council proposed to accommodate them in R.S. No. 457, regarding which acquisition proceedings were then pending. It is also learnt that a lay-out had been prepared and forwarded to the Director of Town Planning for approval. The Municipal Council proposed to get the foundation stone of the new colony laid by the then Revenue Minister on 12th April 1955. Permission was, therefore, sought by the Chairman to enter upon R.S. No. 457 and carry out necessary arrangements in anticipation of the passing of the award and also for sub-dividing the land into plots.

23. Previously, on 7th April 1955, it had been resolved by the Municipal Council as per Ex. B26 to prepare a lay-out for 200 poor families in that site and to provide houses for such of those as have been evicted recently from *Sanbastiapeta* without any communal differences. Each of those allottees had to pay in the first instance a sum of Rs. 150/- for the plot allotted to him and further a sum of Rs. 24/- per annum for 3 years. Pattas were to be granted only to those who made these payments and it was resolved to evict those who failed to make these payments.

24. On 12th April 1955, Sri T. Nagabhushanam, who then happened to be the Municipal Councillor for locality No. 10, prepared a list of the squatters who had been evicted from that plot, who according to him, had to be provided for in the alternative site R.S. No. 457, and submitted it to the Municipal Council. That list is marked as Ex. A1. That list was approved by the Municipal Council by a resolution Ex. B38 passed in a meeting on 21st April 1955 and it was also resolved that the new colony should be named after Sri

Venkatarao, the then Chairman of the Council. The Revenue Divisional Officer who passed the award relating to the acquisition of R.S. No. 457 on 4th April 1955 instructed the Revenue Inspector, Guntur, to deliver possession of the said site to the Municipal authorities on 10th April 1955 and also apprised the Municipal Chairman of this fact by a demi-official letter, Ex. A5 dated 9th April 1955. This was in reply to the Chairman's letter Ex. B27. In Ex. A5 the Revenue Divisional Officer pointed out to the Chairman that "the claim of providing alternative sites to the poor is intended to the squatters on lands at the disposal of the Government and not to others who are residing in private lands, either unauthorisedly or authorisedly", that "whenever the squatters on Government land are proposed for eviction, the Government have been issuing orders not to disturb them till alternative sites are proposed", and that as the owners of the sites T. S. Nos. 317/1 and 443/2, which are ryotwari dry lands acquired for the hospital, as well as the squatters have been paid compensation, it was presumed that there was no need to provide alternative sites for those persons. It is this letter that has been strongly relied upon by the petitioner for his contention that, in the matter of allotment of plots in the newly acquired site, the squatters on *Rajagari thota* were favoured by the Municipal authorities as, pursuant to an inducement held out to them both by the 1st respondent and the Chairman Sri Venkatarao, they had undertaken to support the candidature of the 1st respondent in the general election and that they were granted sites in the newly acquired plot as a reward for having voted for the 1st respondent. As T. Nagabhushanam, the Ward Member who drew up the list as per Ex. A1, happens to belong to the party of the 1st respondent in the Municipal Council, it was contended that he included in that list only such of those squatters as had promised to vote for the 1st respondent and as had actually voted for him.

25. Another circumstance relied upon by the petitioner is that when pressure was brought to bear upon the squatters to quit the site in *Sambasivapeta*, the 1st respondent and the Municipal Chairman interceded on their behalf by requesting the Collector to give the squatters some more time to quit the site. It would appear from Ex. A3 that on 6th April 1955 the Chairman Sri Venkatarao, addressed a demi-official letter to the Collector, Guntur, stating therein that he, the 1st respondent and the Municipal Commissioner requested him to grant 4 days time to the encroachers who were being evicted from the site in *Raja's* garden. He also apprised the Collector of the fact that an alternative site was provided for them in *Israelpeta* and was being demarcated as hutting area by the Municipal T. P. Section. Permission was, therefore, sought on their behalf to remove their moveables from the site in the *Raja's* garden.

26. Thus it will be seen from the various documents filed in this case that the Municipal authorities launched upon a scheme to provide alternative accommodation to the squatters even as early as in 1952 and had been negotiating for the purchase of R.S. No. 457 for that purpose. But, on the Collector taking objection to the high price at which the said land was proposed to be purchased, they resolved to acquire it through the Revenue authorities, under the provisions of the Land Acquisition Act, and eventually by the end of March 1955 they deposited with the Acquisition Officer the amount of compensation to be paid to the owner of the said land. The election was held on 18th February 1955 and the acquisition proceedings materialised on 4th April 1955 on the Acquisition Officer passing the requisite award. When on 6th April 1955 the Revenue authorities took coercive process to evict the squatters, the Chairman Sri Venkatarao and the 1st respondent, who was then a Municipal Councillor, requested the Collector on behalf of the squatters to grant them a few days time to quit, as it was being proposed to accommodate them in the site acquired, and eventually on 21st April 1955 the Municipal Council passed a resolution approving the lay-out made by the Town Planning Officer

to accommodate 200 families in that land and making allotment of the respective plots to the squatters recommended by T. Nagabhushanam in his list Ex. Al.

27. From these events the petitioner wants this Tribunal to infer that even prior to the election the 1st respondent and his agents had held out to these squatters that only such of those as would support the candidature of the 1st respondent would be provided with sites in the land that was the subject matter of the acquisition proceedings and that eventually they managed to see to it that sites were granted only to such of the squatters as had voted for the 1st respondent. The land R. S. No. 457 does not belong to the 1st respondent. It had been acquired by the Municipal Council for a public purpose. As such, even if it were true that the 1st respondent, had held out any promise with regard to the allotment of sites, it does not amount to bribery, as the offer said to have been made by the 1st respondent does not relate to any property belonging to him. At best, it is open to the petitioner to contend that this act of the 1st respondent and his agents amounts to undue influence. The definition of "undue influence" is very wide in its term and includes four different forms of interference. *viz.*, direct interference, indirect interference, direct attempt to interfere and indirect attempt to interfere, with the free exercise of any electoral right. Evidently the offence includes such interference or attempt to interfere by any method and the rule definitely includes the method of inducement, wherein there may be no compulsion at all, although the inducement must be of such an awful type as to leave no free will to the voter in the exercise of his choice. There would, of course, be in such a case mental compulsion in a sense. But it is not necessary that there should be physical compulsion or that a threat must be held out by a person who interferes or attempts to interfere.

28. The 1st respondent is alleged to have abused his position and influence as a Municipal Councillor by attempting to secure votes from these squatters with the promise that if they voted for him they would be provided with free sites in the land that was about to be acquired by the Municipality. The allegation of the petitioner that these sites were given to the favoured squatters free of any charges is wholly devoid of truth, as, according to the conditions laid down for the allotment of the sites, each allottee had to pay Rs. 150 in the first instance and a sum of Rs. 24 every year for three years before he is granted patta in respect of the site allotted to him. The assertion of the petitioner in his evidence that on the eve of the election the hutment dwellers of *Sambasivapeta* were promised by the 1st respondent and his agents that they would provide them with alternative sites if they voted for the 1st respondent remains but a bare *ipse dixit*. Admittedly he has no personal knowledge of this event. It is the further contention of the petitioner that this site was not at all meant for the hutment dwellers of *Sambasivapeta* but for the vagrants who were squatting upon road margins and such other Government sites. This contention, no doubt, receives some support from the letter addressed by the Revenue Divisional Officer to the Municipal Chairman. But the Chairman in his demi-official letter to the Collector asking for time to the squatters of *Sambasivapeta* to vacate the site, did specifically advert to the fact that they were proposed to be accommodated in the site acquired for the Municipality, and the Collector himself does not appear to have taken exception to the scheme of the Municipal Council. Whatever it be, that is a matter between the Revenue authorities and the Municipal Council, and eventually about 200 families of these squatters were accommodated in this site on condition of payment of charges to the Municipality as afore-mentioned.

29. According to the evidence of the petitioner, about 144 persons mentioned in Ex. Al voted for the 1st respondent in the impugned election and as a reward for their favouring the candidature of the 1st respondent

they were given sites in the new colony. But a perusal of Ex. A1 shows that five of the items therein do not refer to any persons who were allotted sites, and they were shown as "*pampus*" and "portions of the land". It will further be seen from the marked copies of the electoral rolls of the polling stations Nos. 47, 48, 49 and 50 (Exs. B42 to B45) that only 34 of these listed persons are registered voters and the remaining 103 have no franchise whatsoever. The petitioner mentioned in his petition the names of some 23 persons, who according to him were influenced by the 1st respondent to vote for him by this means. This number of voters said to have been influenced by this means dwindles from 800 to 144 including the 23 persons named in the petition, whereas it is now found that only about 34 of the 137 persons listed out in Ex. A1 are registered voters. There is no tangible evidence to show that the 1st respondent or his agents ever contacted any of these 34 voters and held out any inducement to them, on the eve of the election. None of the squatters who were allotted sites and none of those who were denied sites were examined by the petitioner.

30. The petitioner satisfied himself by filing into Court what purports to be a copy of a petition said to have been sent by one K. China Venkataswami, who happens to be one of those evicted from the site in *Sambasivapeta* and it was marked as Ex. A2 bearing the date 7th April, 1955. According to the averments made in this petition, this China Venkataswami was not allotted any site in the acquired land though he owned no house or house-site in Guntur and though he had strenuously worked for the Congress Party. He complained that the sites in the newly acquired land were occupied by certain persons named therein who had houses and house-sites elsewhere. It is nowhere complained in this petition that the sites were granted only to those who supported the candidature of the 1st respondent. On the other hand, the applicant himself declared that he worked for the Congress Party. This petition, which was strenuously relied upon by the petitioner, gives the lie direct to the contention now raised by the petitioner, and it shows that even persons who worked for the Congress Party in the election were discriminated against. This document, instead of propping up the petitioner's contention, has, on the other hand, done considerable damage to it.

31. Now remains for consideration the evidence of two other witnesses examined by the petitioner in support of this contention. P.W. 19 Jangalapalli Lakshmiah was, during the relevant period, a Municipal Councillor. Prior to 1952, he was the Councillor representing the *Rajagari thota*, and he says that in 1952 *Sambasivapeta* was clubbed with *Rajagari thota* into one ward. This witness, who is a pleader's clerk, belonging to the same community as the petitioner, worked for the petitioner as election agent both in the Assembly Elections held in 1952 as well as in the impugned election of 1955. According to his evidence, on the eve of the election in 1955, he approached the hut dwellers of this area to canvass their support for the petitioner. By then the Government had served eviction notices on those hut dwellers. Consequently they are alleged to have told him that they would vote for the candidate who would help them in acquiring alternative sites for them. But he expressed his inability to give any such promise. When he approached them a second time, they are alleged to have told him that the 1st respondent and the Chairman Venkatarao and some others promised to get them sites, provided that they voted for the 1st respondent, and he adds that after the elections these squatters were allotted sites in the land, which had been acquired to accommodate some other squatters. He asserted that those allottees did not pay any money to the Municipal Council, though he added in the next breath that the Municipal authorities collected charges from them in 1956 or in the beginning of 1957. He has no documentary evidence to show that the sites meant for some other squatters were granted to persons who supported the candidature of the 1st

respondent. The evidence of this witness is not only hearsay but is also extremely vague. Admittedly, he has no personal knowledge of any promise said to have been held out either by the 1st respondent or by any of his agents. He does not specify the names of the voters whom he approached on both these occasions, nor does he give the dates when he approached them. He is a member of the Praja Socialist Party, of which the petitioner is the leader. Admittedly, he worked as *gumastha* in the office of the petitioner for one year, in addition to the fact that he worked as the election agent of the petitioner both in the 1952 as well as in the 1955 elections. He is, therefore, highly interested, and even the evidence given by him is vague and is in the nature of pure guess work. It is not possible for us to give credence to the testimony of this highly interested witness at its face value.

32. P.W. 8, Bondalapalli Ankamma, also worked for the petitioner in the elections and he states in his evidence that the residents of the 10th ward *Rajagari thota*, which is a labour colony, were previously supporting the Praja Socialist Party but that in the election of 1955 when he approached them for their votes, they told him that they had promised their votes to the Congress candidate as he had undertaken to provide them with house sites. He adds that these labourers shifted to a site on the Mangalagiri Road about 15 or 20 days prior to the polling day. Besides being the agent of the petitioner in the two elections, this witness was admittedly the motor driver working under the petitioner and also his family friend since about 25 years. During the Communist menace, the police apprehended him and also searched his house and he denied the suggestion made in the course of his cross-examination that it was the petitioner that got him released. Even the evidence of this interested witness is in the nature of hearsay and has to be bracketted along with that of P.W. 19. He would say that about 20 families of this area shifted to Mangalagiri Road. This does not consort with the evidence of the petitioner and P.W. 19. He does not know if the Municipality acquired the land on the Mangalagiri Road and allotted sites to those squatters. This is all the evidence adduced on behalf of the petitioner regarding this issue.

33. The 1st respondent stoutly denied having offered to give sites to any of the electors or having helped them to acquire sites. He speaks to the acquisition proceedings, which were started in 1953 and which terminated in April 1955 when the award was passed, and files the letters of correspondence that passed between the Municipal authorities and the Revenue authorities with regard to this acquisition. He also asserts that no sites were given free either to T. Nagabhushanam or to his brother or to anybody. He had no hand in the acquisition proceedings as he did not attend the two meetings that were held in connection therewith on 29th March 1955 and on 7th April 1955. On the other hand, the petitioner himself admits that he did attend the meeting held on 29th March 1955, though he was unable to recall to memory if in that meeting was held any discussion with regard to the acquisition proceedings. Ex. B26 would show that the crucial meeting held on 7th April 1955 was attended by as many as 5 Communist members. If really there is any *iota* of truth in the allegation now made by the petitioner, the Communist members would not have kept quiet without lodging any protest against the allotment of sites, and the 2nd respondent, the Communist candidate, who is a close runner-up, would certainly have challenged the election of the 1st respondent on this material ground. Besides, it is in evidence that this area is a Communist stronghold. In the Municipal elections of 1952, there was a triangular contest between the Congress, the Praja Socialist Party and the Communist Party. Whereas the general seat was won by the Congress Party, the reserved seat went to the Communist candidate, and the candidate of the Praja Socialist Party was defeated. Even in the impugned election, it will be seen that the Communist candidate, *i.e.*, 2nd respondent, got the largest number of votes in



this area, i.e., 767 votes, while the 1st respondent got 581, the petitioner 232, the 3rd respondent 27 and the 4th respondent 7. This is evidenced by Ex. A19, the ballot paper account.

34. The only tangible act imputed to the 1st respondent is that when in the first week of April coercive action was taken against the squatters, he along with the Chairman Venkata Rao interceded on their behalf by requesting on 6th April 1955 the Collector to give some time to the squatters to quit. But this was long after the election and as an accredited representative of the citizens of Guntur in the Legislative Assembly and also as a Municipal Councillor the 1st respondent might have thought it his duty to go to the aid of the squatters, and unless there is evidence to show that he had previously held out any inducement to these squatters, this solitary act of his must be held to be a public act done by him in his capacity as the representative of Guntur constituency, and it is not permissible to draw therefrom any adverse inference against him.

35. According to proviso (b) to Clause (2) of Section 123 of the Act, a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause. The acquisition of land for the citizens and the allotment of sites therein is a public act, for which the Government and the Municipal authorities alone can be held responsible. As has been rightly contended on behalf of the 1st respondent, the petitioner appears to have pressed into service certain official acts for which the entire Municipal Council, of which the petitioner and 5 members of his group are also members, the Commissioner as its Executive Officer and other Government functionaries were responsible, by twisting and giving a colour of corrupt practice in respect of the same. The missing link in this chain of events, viz., that the 1st respondent and his agents held out inducement to these squatters on the eve of the elections was sought to be proved by the oral evidence of the petitioner and P.Ws. 8 and 19 and the petitioner has miserably failed in establishing this link. We have, therefore, no hesitation in finding this issue against the petitioner. The wild allegation that each of these squatters was paid Rs. 5/- stands but a bare assertion not proposed up by any evidence. Petitioner must, therefore, fail on this issue.

36. *Issue 2.*—The locality locally known as *Sangadigunta* is the 20th locality in the Guntur Municipality and it is covered by items 94 to 97 in the list of polling stations, Ex. A12. The 1st respondent is a resident of this area. According to the contention of the petitioner as set out in para 2 of Part I of the list of particulars, there is an association of washermen nearby this area. The members of this Association are the residents of localities No. 19 Factories Ward, No. 20 *Sangadigunta* and No. 21 *Chowtra*. One Sri Kotayya is the President of this Association. On the eve of the elections, the 1st respondent made a donation of Rs. 500/- for the construction of a temple in pursuance of an agreement arrived at between him and the members of the said Association to the effect that they should all vote for the 1st respondent in the election. Kotayya, the President of the Association, received the said amount from the 1st respondent as gratification on behalf of the Association. The construction of the temple, which was begun on the eve of the election, was completed immediately thereafter with the aid of the said amount and a deity was installed therein. S. 83(2) of the Act requires that full particulars of an alleged corrupt or illegal practice should be set out including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of such

practice. The petitioner has not given the date when the 1st respondent offered to make this donation and when he gave the promised money to the Association. He does not even give the name of the temple for the construction of which the 1st respondent offered to make this donation of Rs 500/- and paid the same.

37 The 1st respondent denied having made any donation for the construction of any temple, or having procured votes in that manner. He does not know when exactly the construction of the temple was begun and when the deity was installed. He asserts that he had represented *Sangadigunta* ward in the Guntur Municipal Council continuously since 1930 without any break and that every rival candidate set up by the petitioner against him in the Municipal elections was not only defeated but also forfeited his deposit on all occasions. The name of the Association, which is said to have been bribed in this manner was not given in the petition. But the petitioner, however, refers to this Association in his evidence as *Rajaka Sangham* and he vaguely states that one Kotayya, whose family name he did not disclose, is the President of this Association. According to his evidence, the 1st respondent gave a sum of Rs 500 to this Kotayya for the construction of a temple, whose name also he does not disclose. He, however, filed into Court a photo of this temple, Ex A20, and he states that the construction of the temple was commenced after the 1st respondent paid Rs 500 and that the deity was installed therein after the election. Thus, according to him, about 100 or 500 washermen voters were won over to the side of the 1st respondent by reason of this donation. He did not choose to examine the photographer who took the photo, nor did he cause production of the negatives of this photo. In his cross examination he admits that he has no personal knowledge of the payment of Rs 500 by the 1st respondent. But he adds that Kotayya himself told him of it. If that were so, the petitioner would have summoned for and examined this Kotayya. He adds that one T Venkateswararao, a lorry owner witnessed this payment, which was made ten days prior to the election, i.e. on or about 8th February 1955. Whereas in the petition it was averred that the construction of the temple was begun on the eve of the said election and was completed immediately after the election, the petitioner would now say that the construction started a month prior to the election and was completed in the course of a month, after the election. Though he asserted that two-thirds of the washerman voters were influenced on account of this contribution, he was not able to specify even a single name of the person, who is said to have been so influenced.

38 Venkateswararao, the lorry owner referred to by the petitioner in his evidence as having witnessed this payment of Rs 500 by the 1st respondent to the President of the Sangham, was examined as PW 20. His name is Namana Venkateswararao, whereas the petitioner refers to him as T. Venkateswararao, a lorry owner. PW 20 is a Telaga merchant of Guntur doing commission business in tobacco trade. He is the President of the District Committee of the Praja Socialist Party and he worked as a canvassing agent for the petitioner in the 1955 election. He refers to the washermen's Association as *Ganpibazar Rajaka Sangham* and he says that when he approached the members of this Sangham to canvass their votes for the petitioner about 10 or 15 days prior to the polling day, they told him that they had constructed in part a temple dedicated to Kota Ankamma and Pothuraju and that they would vote for the candidate who paid money for the completion of the construction. He however, told them that his party was not in a position to pay them any money. He again approached them 2 or 3 days later and was told by them that as the 1st respondent had undertaken to have the construction of the temple completed they had promised their support to him. Whereas the petitioner would say that the construc-

tion of the temple was commenced on the eve of the election, this witness would say that the building had been constructed up to the height of the top beam of the doorway as early as in 1952 but that the work had been suspended and that by the date of the polling the construction was completed. He it was that got the photo of the temple taken as per Ex. A20 and we find him in this photo. This photo, according to him, was taken about 5 or 6 days prior to the polling day. He states that idols were installed in the temple a month after the polling day. He was told by B. Kotayya and others that the 1st respondent himself got the idols for the temple.

39. In his cross-examination he admits that he does not know if the washermen of this area supported the Praja Socialist Party in any previous election. No candidate of that Party was set up for this ward. But in 1952 Municipal Elections, this witness competed as an Independent candidate with the 1st respondent for the seat in this ward, and whereas the 1st respondent got 860 votes, this witness secured but 160 votes. He challenged the election of the 1st respondent and the Election Petition filed by him was allowed. The 1st respondent thereupon applied for a Writ to the High Court, which ordered the holding of a fresh election. Thus, it will be seen that this witness has been at loggerheads with the 1st respondent since about 1952 and is now the President of the District Committee of the Praja Socialist Party, of which the petitioner is the leader. He also worked as polling agent for the petitioner in ward No. 23. He does not speak to any donation having been made by the 1st respondent and his evidence with regard to what transpired between the 1st respondent and the members of the Rajaka Sangham is purely hearsay. His assertion that these washermen were all supporters of the Praja Socialist Party previously is belied by his own admission made in the course of his cross-examination. He is alleged to have contacted one Guntur Vudathayya, a member of this Sangham, in the course of his negotiation for votes. But this Vudathayya, whose evidence will be referred to hereinafter, denied this contact.

40. It would further be seen that besides being a polling agent for the petitioner, this witness published a pamphlet Ex. B1 appealing to the communal passions of the members of the Telaga community, to which he belongs, and complaining against the leaders of the Vysya community, to which the 1st respondent belongs, who, according to him, were domineering the Guntur Town and were causing great harm to the members of the Telaga community. The evidence of such a person who has been a personal enemy and the election rival of the 1st respondent for a considerably long time and who carried on an aggressive and a militant campaign against the 1st respondent and his community during the last elections is not entitled to any credence, and even that evidence does not in the least bring home the offence of bribery to the 1st respondent.

41. P.W. 8, whose evidence has already been adverted to in another connection and rejected by us, comes forward with a different version altogether regarding this alleged bribery. According to him, when he went to canvass the votes of washermen of this area, they told him that the 1st respondent had promised to get a temple constructed for them and that if the petitioner undertook to get a temple constructed for them they would vote for him. At the time when he contacted these washermen he saw only the foundation of a temple at *Sangadigunta*. This again is hearsay and is also as vague as the testimony of P.W. 20. He does not give the dates when the names of the persons whom he contacted and who is alleged to have offered to vote for the petitioner in the event of his getting a temple constructed for them. We wonder if this witness has really seen the temple of Ankamma in *Sangadigunta*. We have no hesitation in bracketting the evidence of this witness along with that of P.W. 20.

deliveries is detrimental to the interest of the trade or the public interest, or to the larger interest of the economy of India and so notifies the President, then notwithstanding anything to the contrary contained in these bye-laws, or in any hedge and/or transferable specific delivery contracts made subject to these bye-laws, every hedge and/or transferable specific delivery contract relating to any delivery or deliveries notified under this bye-law and entered into between a member and a member or between a member and a non-member then outstanding, shall be deemed closed out at such rate or rates, appropriate to such contract or contracts and with effect from such date as shall be fixed by the Forward Markets Commission, after obtaining the views of the Board if considered necessary, and the provisions of clauses (3), (4), (5) and (6) of bye-law 298 shall apply as if they form part of this bye-law.

298B. (1) Where the Forward Markets Commission considers it expedient so to do, it may call for periodical information relating to hedge and/or transferable specific delivery contracts entered in by members in such form and in such manner as may be specified.

(2) In particular, and without prejudice to the generality of the foregoing power, such information may relate to—

- (i) contracts entered into by a member with another member on his own account,
- (ii) contracts entered into by a member on behalf of his each client,
- (iii) business of non-members appropriated by the member to himself.

IX. In Bye-law 299, the following proviso shall be added, namely:

“Provided that the resolution passed by the Board under this Bye-law shall be effective after it has been communicated to the Forward Markets Commission and the Exchange does not hear within 48 hours of communication of such resolution from the Commission anything to the contrary”.

X. In Bye-law 301 to clause (a), the following proviso shall be added, namely:—

“Provided that the resolution passed by the Board under this Bye-law shall be effective after it has been communicated to the Forward Markets Commission and the Exchange does not hear within 48 hours of communication of such resolution from the Commission anything to the contrary.”

XI. In Bye-law 302, figure and word “298 or” wherever they occur shall be omitted.

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in January 1949 when in a meeting held on 30th January 1949 one Gunturi Vudathayya was elected as the President. This is evidenced by the Minutes Book of the Sangham Ex. B6 and Vudathayya examined as R.W. 1 says that he still continues to be the President. The members of this Sangham raised public subscriptions for the construction of a Mandir called Kota Ankamma Gudi in 1952-53 and the construction, according to the President of the Sangham, was completed in 1953. He would say that the names of some of the donors who gave subscriptions are inscribed on the temple. While admitting that P.W. 21 gave a stone door-frame for the temple, he positively asserted that he was not the mason who constructed the temple. On the other hand, the mason who constructed the temple was one Pullayya, whose name we find at page 31 of Ex. B6, wherein are set out some items of expenditure in connection with the construction of the temple from 5th August 1952 to 9th September 1952. This witness is positive in his assertion that no addition whatsoever was made to this temple in 1955 and denied that the 1st respondent offered to pay them any money for the construction of the temple if they voted for him. He also gave the lie direct to the evidence of P.Ws. 8, 20 and 21. There are 300 voters who are members of this Sangham. They do not belong to any political party. No inducement was held out to them to vote for the 1st respondent. No interestedness was imputed to this witness and there is no reason why his evidence, which is borne out by the unimpeachable documentary evidence supplied by the minutes book, should be discountenanced.

45. Noothakki Koteswararao R.W. 2 is a member of the washerman community, but carrying on business in fuel and also forest contracts. He is a resident of *Sangadigunta*. He is also a member of the First Class Bench Court, Guntur, for the past 10 or 12 years. According to his evidence, this shrine of Kota Ankamma has been in existence from time immemorial. Previously there was only a slab symbolising the deity and a *pucca* temple was constructed in 1952 from out of public donations. This witness donated the idols to the temple, which he had got made at Tenali at a cost of Rs. 50. These idols were, according to him, installed 3 years ago, i.e., in March 1953. Except the fact that this witness is a supporter of the Congress Party, the credibility and disinterestedness of this respectable witness stands unchallenged, and we have no hesitation to prefer the evidence of R.Ws. 1 and 2 to the vague and interested testimony of P.Ws. 8, 15, 20 and 21.

46. Pursuant to the common request made by both the parties, we inspected this shrine on 30th July 1957 in the presence of the counsels for both the parties. This is situate in a narrow lane called *Chinna Bazaar*. It has a stone door-frame with wooden planks and iron bars inserted in the frame. Above the stone frame is inscribed the name of the temple KOTLA ANKAMMA DEVASTHANAM, and on the top of the stone frame is inscribed the name of P.W. 21, who it was that endowed this door-frame to the temple. On each side of the door-frame are inscribed figures 19 and 52, indicating that the frame was put up in the year 1952. The front yard of the temple is paved with Cuddapah slabs and on some of these are inscribed the names of persons who made contributions for the construction of the temple. There is a small dome on the temple with a brass pinnacle or *Sikharam*. The height of the building is about 7 feet. The height of the door-frame including the threshold is 6 feet 5 inches and the height of the construction over the door-frame is about 10 inches. On the terrace is a platform with a dome and pinnacle. In the court-yard of the temple there is the stone image of Pothuraju facing the image of Ankamma in the temple. This image of Pothuraju was gifted out by one Tripuramallu Satyanarayana,

whose name is inscribed on a slab. We find the name of R.W. 2 Nootakki Koteswararao on the platform on which the image of Ankanamma was installed.

47. The contention of the 1st respondent that the photo Ex A20 was designedly taken only with a view to show that the construction was not yet complete in 1955 does not appear to be without foundation, as we see from the photo that the view of the shrine is confined only up to the terrace and we do not find therein either the dome or the pinnacle. We do not, therefore, give credence to the story that the 1st respondent contributed Rs. 500 for the completion of the construction of this temple. The 1st respondent emphatically denies his having had any hand in the construction of the temple. P.W. 21 never approached him for that purpose. In the impugned election the 1st respondent got 860 votes in this *Sangadigunta* area whereas in the previous Municipal elections he secured about 868 votes. Thus, it would be seen that there is no change in his influence in this area between 1952 and 1955, and he being a resident of that area nobody could dislodge him in the Municipal elections and there was no need for him to have any recourse to bribery or other inducement for securing the support of the voters of this area. We find this issue, therefore, against the petitioner.

48. *Issue 3*—The 16th locality of Guntur Municipality, which is the subject matter of this issue, is what is locally known as *Patha Guntur* and it is covered by items 54 to 60 in Ex. A12. There is said to be in this area an association of washermen known as *Guntur Pattana Rajaka Sangham* and, according to the averments made in para 3 of Part I of the list of particulars, the 1st respondent paid a sum of Rs. 800 to this association as gratification to induce the members of that Association to vote for him. This bald averment does not refer to such material particulars as the date when and the persons to whom this sum was paid as gratification. It is further averred that in addition to this bribery, undue influence was also exercised over the voters in the following manner, namely:

- (i) Two days prior to the election, the 1st respondent and the Chairman Sri Venkatarao got electric lights put up throughout the streets of the washermen and the cost thereof was borne by the Municipality; and
- (ii) The President and the Secretaries of the Sangham are the employees in the Guntur Branch of the Andhra Bank Ltd. Sri Maddi Sudarsanam, an accredited agent of the 1st respondent, is a Director of the said Bank and he exercised undue influence over the President and Secretaries of the said Sangham and thus procured the votes of the members of this Sangham for the 1st respondent.

In his statement the 1st respondent denied *in toto* all these allegations.

49. The petitioner would say in his evidence that a sum of about Rs. 800 was given to the washerman voters of the 16th locality and that this amount was distributed to the voters of that locality. Admittedly, he has no personal knowledge of this. But he would say that when he approached these washermen for their votes, they told him that they had already received from the 1st respondent a sum of Rs. 800 and also asked him to pay them a similar amount. The Secretary of the Rajaka Sangham of this area is, according to the petitioner, an employee of the Andhra Bank, of which Sri Maddi Sudarsanam is a Director. But the petitioner does not categorically assert that Sri Maddi Sudarsanam exercised any influence either over the said Secretary or on any of the members of the Association. He did not give out the name of this Secretary in his chief-examination, but it is elicited from

him in cross examination that one M. Satyam is the Secretary of this Association and that Mattapatti Kotayya and Ramaswami are two of the members of the Managing Committee. He did not himself witness the distribution of Rs. 800 among the said members. But he says that some of his agents, such as Somavva, Narayana, Ragavayya, and several others witnessed this distribution. We find none of these names in the list of particulars. Nor did the petitioner take the trouble of examining any of them.

50. We have again the evidence of the omnibus witness P.W. 8 in this connection. P.W. 8 does not speak of any payment of any sum by the 1st respondent to the residents of this locality by way of bribery. On the other hand, he comes forward with a totally different version altogether. Some washermen including Chakali Ramudu and Venkateswarlu are alleged to have told him that the 1st respondent had undertaken to enlarge the Rama Mandiram in that locality. We have no reference whatsoever to any Rama Mandir in the list of particulars. Nor does the petitioner speak to any improvement to any shrine in this locality.

51. We have yet another totally different version from P.W. 6 Manchella Hanumantharao, who was then the Secretary of the Town Branch of the Praja Socialist Party and who also worked as polling agent for the petitioner in the 16th ward, wherein about 300 washermen are stated to be registered voters. This witness refers to a Rama Mandiram in Kondavari Veedhi, wherein about 10 washermen families reside, and states that when he approached them for their votes on behalf of the petitioner, they told him that the 1st respondent had offered to donate Rs. 1,200 for Rama Mandir and that if the petitioner offered to give them more money they would consider about their votes. One Veeravilli Venkayya was, according to this witness, then the President of the Rajaka Sangham. This witness is also one of the omnibus witnesses speaking to several other incidents, which would be adverted to hereinafter in their proper order. He has been a member of the Praja Socialist Party since about 4 years and he worked for the petitioner both in the impugned election as well as in the previous elections. It was from the President of the Rajaka Sangham that he learnt about the contribution by the 1st respondent about a week prior to the polling. He is alleged to have attended a meeting of this Sangham held on a pial in Kondalavari Veedhi, though he had not been invited for the said meeting. In the next breath he corrected himself by stating that one Bikshalu, a member of the Sangham, asked him to attend the meeting to canvass votes. Though he belongs to the Brahmin community, he claims himself to be one of the organisers of this Sangham of washermen. About 4 or 5 days after the announcement of the results of the election, he is alleged to have told the petitioner that the 1st respondent had paid Rs. 1,200 to this Sangham. If that were so, it is not known why a different version altogether is set out in the list of particulars alleging that the 1st respondent paid Rs. 800 to this Sangham and this sum was distributed among the members of the Sangham. Not a whisper is made to any Rama Mandir in the list of particulars. When cornered in the course of his cross-examination, this witness gives up the whole show by blurting out that Rama Mandiram, which has already been in existence, does not appear to have been extended or improved for aught he knows.

52. As against this flimsy and unreliable evidence, we have the categorical assertion of the Secretary of this Sangham Veeravalli Venkayya R.W. 4 and the President Mattapalli Bikshalu R.W. 5. R.W. 4 emphatically denied having been ever approached by the 1st respondent and Chairman Venkatarao in connection with the last election and he having made any demand on them. They never promised to give him either Rs. 800 or Rs. 1,200, nor did they pay any money to this Sangham. Rama Mandir in Kondavari Veedhi was renovated 7 or 8 years ago and since then no repairs were made. This

witness never told P.W. 6 that the 1st respondent paid him Rs. 1,200. The members of this Association did not hold any meeting regarding 1st respondent's candidature. P.W. 6 has nothing to do with this Sangham and he never attended any meeting of theirs. This witness would say that the Rama Mandiram has been in existence from time immemorial and that it was renovated about 7 or 8 years ago at an expense of about Rs. 300. His evidence would show that he is an employee under the Andhra Bank Ltd., Guntur, working as a shroff on a salary of Rs. 150 per mensem, and Shri Maddi Sudarsanam was one of the Directors of this Bank in 1955. He says that the Congress volunteers approached him for his vote. It was not suggested to him that either Shri Maddi Sudarsanam or any of his accredited agents approached him or the members of the Association, of which he is the Secretary, for their support.

53. R.W. 5 Mattapalli Bikshalu, the President of the *Patha Guntur Rajaka Sangham*, is also an employee under the Andhra Bank Ltd., Guntur. He stoutly refutes the petitioner's case that one Satyam ever acted as the Secretary of this Sangham. R.W. 4 is the Secretary, and he asserts that there is no member of this Association bearing the name Satyam. Neither the 1st respondent nor the Chairman Shri Venkatarao ever offered to pay any money to him or the members of the Sangham to support the Congress and this witness never told either P.W. 6 or P.W. 8 that they received money from the 1st respondent. No meeting was held in this connection. Rama Mandir has been in existence from time immemorial. He denies having been subjected to any influence in the matter of exercising his franchise.

54. The case of the petitioner so far as this part of this issue is concerned stands self-condemned. The evidence adduced is tainted being of a partisan character. The testimony of the witnesses examined by the petitioner to speak in this respect does not consort with the averments made in the petition. On the other hand, we have the tangible evidence of the President and the Secretary of this Sangham, which completely throws overboard the case for the petitioner in this respect.

55. It is next contended that the 1st respondent and the Chairman Venkatarao got certain electric lights put up throughout the streets of the washermen and thus influenced them unduly to vote for the Congress candidate. The evidence adduced on behalf of the petitioner in this respect also is flimsy. According to the petitioner's version, about 3 or 4 electric lights were put up. We find from Ex. B-31 that on 28th May 1953 there was a motion before the Municipal Council for "fixing of electric poles in Kondavari Street, old Guntur, and providing of 40 Watts bulbs and also for providing two lights in each street in the newly constructed area from *Buradagunta* to water level bund". It was resolved by the Council that electric lights should be provided in the area where there were poles existing and when new poles were to be fixed the matter has to be referred to the committee. Thus, the question of providing electric lights for this area was pending with the Council since 1953. Electric lights were put up pursuant to this scheme and that too at the expense of the Municipality.

56. We wonder how this amounts to any inducement to the voters of that area. It may be true that R.Ws. 4 and 5 are the employees of the Guntur Branch of the Andhra Bank Ltd. and that Shri Maddi Sudarsanam is one of the Directors of the said Bank. The 1st respondent denied the allegation that Shri Maddi Sudarsanam was his agent. The petitioner did not speak in his evidence to the influence alleged to have been exercised by Shri Maddi Sudarsanam over the employees of the Bank and there is no other evidence in this respect. It was not even suggested to R.Ws. 4 and 5 that Shri Sudarsanam ever approached them for their votes. Even if it is true that this Sudarsanam exercised any influence over the employees of the Bank, that can



by no means be held to be undue influence, unless it is shown that he abused his position and thus interfered with the free exercise of electoral right of his employees either directly or indirectly. All influence cannot be termed as undue and there is vital difference between due influence and undue influence. The law cannot strike at the existence of influence. It cannot take away from a man who has some position and authority the influence he has over those whom he may benefit. What the law prohibits is the abuse of this influence. Mere exercise of influence is no offence. A person having a position of prominence is entitled to canvass for a candidate and the candidate is entitled to derive advantage from the prestige of such a supporter. We negative the contentions raised by the petitioner under this issue. This issue is held against the petitioner.

57. Issue 4.—This issue relates to the 4th locality of the Guntur Municipality locally known as *Koratipadu*. This area is covered by items 1 to 6 of Ex. A-12. It is averred in para 4 of Part I of the list of particulars that the votes of washermen living in this locality were procured by the 1st respondent and the Chairman Venkatarao by payment of cash of Rs. 5 per head on the eve of the election. It is further averred that they also promised to construct a *dhobikhana* near *Pichikalagunta* where the washermen wash their clothes. Immediately after ascertaining that the said washermen voted for the 1st respondent pursuant to the previous agreement and as a reward for having given their votes to him, the 1st respondent prevailed upon the Municipal subordinates to construct this *dhobikhana* and a beginning was made by way of digging the foundation for the construction of the same. Thus, according to this averment, the 1st respondent not only bribed the voters of this area but also exercised undue influence on them by the promise of the construction of a *dhobikhana*. *Pichikalagunta* referred to in the list of particulars is not situate in the 4th locality, but it is in the 6th locality, Arundelpeta, covered by items 21 to 26 in Ex. A-12. There are also two *dhobikhanas* existing in the *Koratipadu* area. The petitioner admitted in his evidence that the Municipal Council had sanctioned the estimate for the construction of the *dhobikhana* even a year prior to the election. But he states that the construction was actually started a week before the election, and adds that the work remains still unfinished as nobody took interest after the elections. He also states that the voters in this area were bribed by the 1st respondent to the tune of Rs. 5 per head. But admittedly he has no personal knowledge of this. He would have us believe that the voters of this area told him not of the actual payment but of the offer made by the 1st respondent to pay each voter Rs. 5. The source of this information regarding the offer is stated to be one Konda Seshayya, a leader of the washermen of this area.

58. The petitioner examined on his behalf 3 witnesses in this connection. P.W. 7 Muthukuri Chinnayya, is a washerman resident of line No. 17 of Arundelpeta and he poses himself as a member of the Arundelpeta Rajaka Sangham, which Association has not been referred to by the petitioner either in his petition or in his evidence. P.W. 7 would say that on the eve of the election the 1st respondent and Chairman Venkatarao assured him and the members of the Sangham that they would provide all amenities for them if they supported the candidature of the 1st respondent and they promised to have a shed for the washermen constructed and also to put up water pipes. When the petitioner's agents approached them for their support, they told them that they had already promised their votes to the 1st respondent. After the elections were over, he and the members of the Sangham approached the 1st respondent and Venkatarao four or five times reminding them of their promise, but they did not pay heed to their requests. From his cross-examination we learn that this Sangham is not a registered one and that there are no regular members in it. One Regulla Ramudu is stated to be the

President of this Sangham, but this witness is not sure as to whether Bachi-Konda Venkatappayya or A. Venkateswarlu is the Secretary of the Sangham. He is not aware of the previous resolution of the Municipal Council to put up a *dhobikhana* in this area. But he says that the foundation for the washermen's shed had been laid a month prior to the election and that about a month thereafter the 1st respondent approached the washermen for their votes and undertook to see to the completion of the work. Admittedly, till this witness attended the enquiry on the date when he was examined by the Tribunal he did not tell the petitioner about the offer made by the 1st respondent and he had come to Court along with three other washermen to give evidence. When asked how, without having any summons, he came to know of the enquiry, he made the following interesting statement:

"I came here because so many persons have come here. R. Venkatappayya, M. Narasinhulu and Sheik Wazid have come to Court today. We all came together to Court expecting that we washermen would be asked about our affairs. We did not contact the petitioner. As the Court peon cried out my name I came here."

Comment is needless and it is obvious that the evidence of this witness has been got up for the occasion. He is also interested as he worked for P.W. 17, a staunch partisan of the petitioner, in the Municipal elections.

59. Vedullapalli Manikyalarao (P.W. 14), who is a *masalchi* attached to the Guntur Town Sub-Magistrate's Court, poses himself to be the Secretary of the Rajaka Seva Sangham in Arundelpeta. He says that one R. Ramudu acted as Secretary previously for two years and that in 1955 he was a member of the Working Committee of the Sangham. According to his evidence, the 1st respondent, Chairman Venkatarao and Ch. Hanumayya came to his locality about a month prior to the elections and asked him to convene a meeting of the washermen. Chairman Venkatarao presided over the meeting and it was addressed by the 1st respondent. In the course of his speech, the 1st respondent promised that he would give the washermen all his co-operation in connection with their professional matters and that therefore they must vote for him. The washermen requested him to have a shed constructed for them on the tank bund, to put up two water pipes and to assign the tank poramboke to them for drying washed clothes. This request was acceded to by the 1st respondent and consequently the members of the Sangham resolved to vote for him. The 1st respondent got the foundation of the shed laid prior to the elections and the basement was constructed by the date of the election. But the work stopped at that and when, subsequent to the elections, they approached the Chairman again, they were told that there was no provision in the Municipal budget and that they had to wait for sometime more. It will be seen from the cross-examination of this witness that he was previously eking out his livelihood as a petition-writer and as also a "private", which term denotes in these parts one who busies himself in the litigation of others or in other words, a tout. The Sub-Magistrate, Guntur, is stated to have asked him orally to work as *masalchi* in his Court and there is no order in writing in regard to the appointment. Whereas P.W. 7 swore that this Sangham is not registered, and that there are no regular members of the Sangham, this witness asserts that there is a register containing the names of the members and there are also a Minutes' book and an account book. Rachakonda Venkatappayya is, according to this witness, the President of this Sangham, while P.W. 7 would say that Regulla Ramudu is the President. The proceedings of the meeting said to have been presided over by the Chairman Venkatarao were not entered in the Minutes' book. This witness undertook to produce the Minutes' book "by this evening", and Ex. A-98 was produced into Court, though this witness did not re-enter the witness box to speak to the entries therein.

60. We learn from Ex. A-98 that Rachakonda Venkatappayya is the President of this Sangham. There is no reference in this Minutes' book to any meeting said to have been held on the eve of the election and addressed by the 1st respondent. This witness would say that he did not contact the petitioner at any time and that he did not apprise him of this meeting, and when asked how he happened to come to Court to give evidence, he states:

"I came to court in a car. I do not know to whom the said car belongs. While I was coming to Court the car of a Pantulu stopped and I got into it. That Pantulu is the petitioner. He gave me lift learning that I am coming to this Court."

61. Next, we have the evidence of P.W. 17 Shri Ramaraju Laxminarayana, a member of the Guntur Bal. He is also the Secretary of the Majeti Guravayya High School, Guntur. He worked for the petitioner in the impugned election and canvassed votes for the petitioner in Arundelpeta. He comes forward with a stale and stereo-type story that when he approached the washmen of that area for votes they told him that they would support that candidate who would give them facilities regarding the washing of clothes and that when he again approached them a month later he was told that as the 1st respondent had undertaken to give them facilities through the Municipality, they would support his candidature. He is alleged to have carried on negotiations with Venkatappayya, the President, and Ramudu, the Secretary, and two members of the Executive Committee Manikyalarao (P.W. 14) and Chinmayya. He adds that the construction of the shed was commenced a few days prior to the polling day but that it was stopped subsequently. This witness was a Municipal Councillor from 1919 to 1952 and in the elections held in 1919 he supported the petitioner while the latter supported him. He also supported the petitioner in the contest for the Chairmanship. He worked for the petitioner both in the 1952 Municipal elections as well as in the Assembly elections in 1952 and 1955. He does not know if the *dhobikhana* at *Pichikilagunta* was the subject matter of any resolution of the Municipal Council in 1953. He admits, however, that that *dhobikhana* is on the Municipal site and was constructed at the expense of the Municipality about 10 or 15 days prior to the election. His evidence is not only vague but is also in the nature of hearsay. It does not in any way further the case of the petitioner.

62. As against this evidence we have the evidence of R.W. 3 Adirala Venkateswarlu, who is the Joint Secretary of the *Rajaka Jana Seva Sangham* of Arundelpeta. He swears that neither the 1st respondent nor the Chairman Venkatarao ever addressed any election meeting under the auspices of that Sangham during the last elections. That Sangham never asked the 1st respondent to get a shed constructed for the washmen or to put up lights and they never undertook to do any such thing for them. P.W. 7, according to this witness, resides at *Konatipadu*, about 3 furlongs from this locality, and he had nothing to do with this Sangham. Nay, this witness does not know who P.W. 7 is. This witness has been working as a Library Attender in the High School at Guntur and the 1st respondent, Shri Maddi Sudarsanam and Shri Venkatarao and some others are stated to be the members of the Committee of that High School. But he adds that the petitioner, P.W. 3 and P.W. 17 are also members of that High School Committee, P.W. 17 being the Secretary. As such, the influence on this witness by the petitioner and his partisans must necessarily have been greater than that of the 1st respondent and his partisans.

63. The payment of any amount as bribe to any voter in this area is not proved. It is not also proved that the 1st respondent or any of his agents ever induced the voters of this area holding out that they would have a

*dhobikhana* constructed for them. Even as early as on 24th July 1953 the Municipal Council had by a resolution Ex. B-32 sanctioned a sum of Rs. 3,300 for the construction of washermen shed at Pichipilagunta and this was reaffirmed by another resolution Ex. B-33 dated 3rd December 1954. Be it noted that the 1st respondent was in no way connected with this resolution as he did not attend the meeting of 3rd December 1951 on account of the death of his daughter-in-law on that very day. Further, on that day he was not even thought of a prospective candidate for the election. It would, therefore, be too much to argue that he held out any promise to the washermen of this area and manoeuvred to have a *dhobikhana* sanctioned for the same. There is no convincing evidence to show when the construction of the *dhobikhana* was actually commenced. We find that the allegations made by the petitioner in this respect are not proved and find this issue against the petitioner.

64. *Issue 5*.—In sub-para 7 of Part I of the list of particulars certain vague and wild allegations are made to the effect that cash was freely distributed in locality No. 6 (that is, Arundelpeta, covered by items-21 to 26 of Ex. A-12). It is not mentioned who distributed this cash and on what dates. The petitioner undertook to furnish particulars of this alleged corrupt practice before the commencement of the enquiry, but he did not do so. In this para are set out about 11 persons who are alleged to have received gratification and voted for the 1st respondent. The truth of these allegations is denied by the 1st respondent, who avers in his statement that he is not even aware as to who the persons that are specified in the list are.

65. To prove these allegations, the petitioner examined himself and his election agent P.W. 17, whose evidence has already been referred to *supra* in another connection. P.W. 17 is alleged to have issued 27 chits, Exs. A-21 to A-47, to the several voters named therein. Out of these 27 persons, we find the names of only 9 persons in the list furnished by the petitioner in para 7 of Part I of the list of particulars who, according to him, received the bribe from the 1st respondent and voted for him. If really the petitioner had with him all these 27 chits at the time of the drafting of this petition, he would not have failed to mention the other 18 names covered by those chits. P.W. 1 would say that the voters to whom chits were distributed by his agent P.W. 17 were returned to him together with a letter demanding Rs. 5 for each vote and he added that that letter is with P.W. 17. He also says that the 1st respondent paid Rs. 5 per vote to the persons mentioned in these chits and thus procured their votes by bribery. In his cross-examination the petitioner would say that these slips were given to him by P.W. 17 a few days after the election and that he also showed him a letter addressed to him. We have now to see how far this evidence of the petitioner consorts with that of P.W. 17.

66. P.W. 17 would say that Exs. A21 to A47 were some of the chits distributed among the voters. One Naredla Sitharamayya gave him 11 such slips, Exs. A28 to A35, A40, A41, and A45, and asked him to pay these voters at the rate of Rs. 2 per vote. This Sitharamayya is the holder of the slip Ex. A40. P.W. 17 refused to pay any amount. Thereupon Sitharamayya went away saying that the Congress people had promised to pay him money. He sent these chits to the petitioner 2 or 3 days after the polling with a letter of his own recounting the circumstances under which he came by these chits. That letter is not forthcoming. It is not the case of the petitioner that he received any such letter from P.W. 17 himself. His case, on the other hand, is that P.W. 17 had received a letter along with these chits demanding a sum of Rs. 5 per vote and that that letter was shown to him by P.W. 17 himself. P.W. 17 himself does not speak to his having received any such letter from

any party. On the other hand, he would say that one of the chit-holders Naredla Sitharamayya made an oral demand at the rate of not Rs. 5 per vote but Rs. 2 per vote. The letter addressed by P.W. 17 to the petitioner would certainly have thrown light over the circumstances under which these chits were received by P.W. 17 and returned to the petitioner. For reasons best known to him, the petitioner appears to have suppressed that letter if really there was such.

67. P.W. 17 does not know who wrote these chits and he is positive in his assertion that Sitaramayya did not give him any letter along with these chits. He also states that he did not tell the petitioner that they demanded Rs. 5 per vote. No reference whatsoever is made to P.W. 17 in the list of particulars. There is absolutely no evidence to show that the 1st respondent or his agents corrupted these chit-holders subsequently by payment of either Rs. 2 or Rs. 5 per vote.

68. Even if the evidence thus let in is accepted at its face value, it only shows that some of the voters whom P.W. 17 approached for securing their votes demanded gratification by way of cash payment and on their demand not being conceded, they returned the chits to P.W. 17. But it would be preposterous to jump to the conclusion thereby that these voters must have been bribed by the 1st respondent subsequently. The 1st respondent, on the other hand, swears that he does not even know who this Naredla Sitharamayya is or the persons mentioned in the chits. He did not pay any money either to Naredla Sitharamayya or to any voter or to anybody on their behalf. No cross-examination was directed against this part of his deposition. We find that the allegation that the voters mentioned by the petitioner in his list of particulars were bribed by the 1st respondent is not true, and this issue is found against the petitioner.

69. *Issue 16(a).*—There is in Gopalswami Street in old Guntur in the 16th locality an Association known as *Sapthaha Sangham* run mostly by members of the Brahmin community for celebrating a religious function for a period of 7 days as the name of the Sangam indicates. During this week are fed people who gather at the religious function and for this purpose public subscription is raised to meet the expenses both of the religious ceremonies as also the feeding of persons that attend the functions. It is averred in para 8 of Part I of the list of particulars that, during the relevant period, the 1st respondent made a gift of 4 bags of rice and Rs. 200 in cash to this Association as a gratification to the members of this Association who are also voters to support the candidature of the 1st respondent in the election. One Chalapathirao is alleged to have received this gratification for and on behalf of the *Sapthaha Sangham*. It is not known from the averments made in the petition on what date this gift was made—whether it was prior to the election or subsequent thereto. From the language employed in the petition it has to be inferred that the 1st respondent made a promise to this Association to donate rice and cash if the members of the Association should vote for him and that the actual payment was made by him after the elections as a reward for their having voted for him.

70. This gift was admittedly, according to the petitioner, to a religious and charitable purpose and it certainly does constitute bribery if it is excessive and if it was made on the eve of the election with corrupt intention. In almost every case where a payment is made in consequence of a voter having voted, it will be a corrupt giving unless some reasons could be given, but the connection of the candidate with the person so bribed or his connivance must be definitely proved and the evidence to prove this may be indirect. It is not also necessary that the person who accepts this sort of bribe should be a voter. Giving of charity for a religious purpose is *prima facie* an

innocent act and to make it a corrupt practice it must appear to have been done with a corrupt motive and if it is the case of the petitioner that it was given after the election was over, it must be shown to have been given in fulfilment of an antecedent promise or expectation held out in order to influence the vote. If small amounts are distributed amongst poor persons who are not voters, this will not amount to bribery. If the amount is spent a long time before the election on charitable purposes, this will not become bribery. It must be shown that the impending election was present in the mind of the 1st respondent when he offered to make this gift to the charitable institution, for, he cannot be refrained from doing that which he might legitimately have done in the ordinary circumstances. If at the time of the making of the promise of this gift the 1st respondent had not been an intending candidate for the constituency and yet had made the promise of this gift, there would have been nothing illegal in what he did, and the fact that he did intend to represent this constituency and though good would be done to him and that he would gain popularity by this does not make that corrupt which otherwise would not be corrupt at all. What is intended is that the acts done with the specific object of influencing the mind of the voter should be prohibited. It is never intended to prohibit an act done to a person, kind and good in itself, merely because it may take the person favourable to the candidate doing it.

71. It is, no doubt, true that a charitable gift may be nothing more than a specious and subtle form of bribery, or rather a pretext adopted to veil the corrupt practice of gaining or securing the votes of the recipients. But a motive originally pure cannot become corrupt by reason of a misuse of what was intended to be a benefit. There are two ways in which a candidate or his agent may be guilty of bribery in the distribution of charitable gifts. First the giving of them to individuals, coupled with a request for their votes. Another method may be distribution of charitable gifts with a view to influence the votes and these are given without due consideration of the need of the persons to whom they are given. In such cases, the proper inference would be that the motive was not that of true charity but of corrupting the mind of the voters. But in such cases it will not be important if the persons to whom the gifts are given are mainly non-voters. In view of what has been discussed, the date when the promise was made and the date when the actual gift was made become material and those material particulars are wanting in the petition.

72. The 1st respondent in his statement totally denies having made any promise to Chelapathirao to donate any rice and cash for procuring the votes for the members of the Association or having made any gift, either in kind or in cash, as a reward for voting at the election. He stigmatised this allegation as "another instance of the malign campaign of the petitioner" and added that most of the members of the said Sangham who belong to the petitioner's community must have voted for the petitioner himself, including the said Chelapathirao.

73. The petitioner would say in his evidence that the members of this Sangham who are about 100 in number, are all Brahmins and that they are all voters and that this Sangham was given a donation of Rs. 200 and 4 bags of rice by the 1st respondent on the eve of the elections. Admittedly, he has no personal knowledge of this and he does not disclose the source of this information. From his cross-examination we learn that Chelapathirao referred to in the petition is a teacher of an Aided School and also the Secretary of the Sangham and that he collected subscription for the Sangham. The petitioner would make a sweeping statement that all the voters residing

in Venugopalaswami Street were influenced by the contribution made by the 1st respondent to this Sangham, though he was not able to recall to memory the names of any of these voters.

74. This instance is sought to be proved by Manchella Manumantharao P.W. 6, whose evidence has been adverted to in another connection and who is one of the omnibus witnesses for the petitioner in this case. This witness does not speak to any promise of gift made by the 1st respondent to this Sangham, nor does he say that the 1st respondent actually made any gift to this institution. He vaguely stated in his evidence that the members of the *Sapthaham Sangham* canvassed votes for and on behalf of the Congress. From his cross-examination, however, we learn that about Rs. 2,000 to Rs. 4,000 would be collected annually to feed those that attend the functions at the *Sapthaham* celebrations. Admittedly, this witness gave up his connection with this Sangham even in 1953. As such, he cannot speak to the affairs of this Sangham in 1955. Chelapathirao who is alleged to have received the gift from the 1st respondent was not examined. The petitioner has failed to prove his allegation in this respect, and we, therefore, hold this issue against the petitioner.

75. *Issue 16 (b).*—It is contended in para 6 of Part I of the list of particulars that the 1st respondent deposited with one Mittapalli Kotayya a sum of Rs. 800 to procure the votes of the *Vadderas*, who are working in his tobacco firm. This amount was promised to be given in two instalments for constructing a library hall for the Association of these *Vadderas*. On the eve of the election a sum of Rs. 300 was given by the 1st respondent to the said *Vadderas* on their promising that they would vote for him and the balance of Rs. 500 was promised to be given after the result of the election was announced. This balance was accordingly paid by the 1st respondent to the members of the said Association after ascertaining that they had voted for him in pursuance of previous promise. The averment that a sum of Rs. 800 was deposited by the 1st respondent with the one Mittapalli Kotayya is inconsistent with the further averment that the 1st respondent paid these *Vadderas* Rs. 300 at the time of the promise and the balance of Rs. 500 after the announcement of the result of the election and after having ascertained that they had voted for him. The 1st respondent denies in his statement both these allegations and asserts that this area being a communist stronghold he did not even visit this area on the polling day.

76. According to the evidence of the petitioner, this *Vaddegudem* is in the 25th locality. It is covered by items 82 to 85 in Ex. A12. The petitioner would say that the 1st respondent deposited with Mittapalli Kotayya a sum of Rs. 800 for being paid to these *Vadderas* and that the said Kottayya distributed Rs. 300 among the voters before the election and the balance of Rs. 500 after the election. Not a whisper is made by the petitioner in his evidence to any Association of these *Vadderas* or to any library hall, which was promised to be constructed by the 1st respondent. In his cross-examination, however, he admits that there are a good number of Communists in *Vaddegudem*, but he states that but for this act of bribery and payment of Rs. 800 for the Library hall, the 1st respondent would not have got even one vote in that locality. In his petition he makes a curious averment that this amount was paid to these *Vadderas* as "a reward for their having voted to the 1st respondent and the 2nd respondent" and refrained from voting for the petitioner. It is preposterous to presume that the 1st respondent bribed any voters to induce them to vote for the Communist candidate (2nd respondent), who was his staunch rival in the election. When confronted with this averment, the petitioner, however, stated that the mention of the 2nd respondent in para 6 of Part I of the list of particulars is an error.

77. Two witnesses, Karnatapu Mallikharjunarao P.W. 9 and Vadlamudi Sitharamayya P.W. 10 were examined on behalf of the petitioner to prove this alleged corrupt practice. P.W. 9 refers to his evidence to an Association called *Vaddiraju Sangham* in Agraharam comprising of about 1,000 members and states that most of these members belong to the Praja Socialist Party and a few to the Communist Party. When he approached them for votes, they told him that they would vote for the 1st respondent as he had undertaken to get a library hall constructed for them. When they asked him if the petitioner would undertake to do so, this witness replied in the negative. While this witness was canvassing votes in the area called Nagarampalem, he saw some *Vadderas* sitting in front of a firm called Kasi Visweswara Tobacco Company. On being questioned by him why they were sitting there, they told him that the 1st respondent was inside the company and that they wanted to talk to him. Subsequently, one Venkateswarlu, who is the President of this Sangham, came out of the company premises and told this witness that the 1st respondent paid him Rs. 600 for constructing a library hall about a week prior to the election and asked this witness whether he was prepared to pay him Rs. 600. If really the 1st respondent had already paid Rs. 600 there was no need for this Venkateswarlu to ask this witness if he was prepared to pay him the same amount. Realising the absurdity and the inconsistency of this statement, this witness was wary enough to correct it in the next breath by saying that Venkateswarlu told him that the 1st respondent had only promised to pay a sum of Rs. 600 and had not actually paid him that amount. It was only that evening that he learnt from the said Venkateswarlu that the 1st respondent had already paid him Rs. 600 and the said amount had been credited in the accounts of the Sangham. This witness would even go the length of swearing that he saw this credit entry in the accounts of the Sangham. He apprised the petitioner of this that very night, telling him that the 1st respondent had paid Rs. 600 to the *Vadderas* and that he had actually seen the credit entry in their account books. If that were so, the petitioner would not have averred to a totally different version in his petition, which is wholly inconsistent with the present version. This witness did not meet Mittapalli Kotayya, the proprietor of this tobacco firm. He was not able to give the date of the entry or the date of the payment. This incident, according to him, is alleged to have taken place a week prior to the election. If that were so, it is not known why either this witness or the petitioner did not lodge a complaint to the authorities, especially when it is alleged that there is unimpeachable documentary evidence of this bribery. This witness is a member of the Praja Socialist Party and is also a member of the Working Committee of the Town Branch of that Party. He was also a canvassing agent for the petitioner. Apart from this interestedness, his evidence is wholly inconsistent with what has been averred in the petition and it does not also consort with the evidence of the petitioner. It has, therefore, to be brushed aside summarily as having been suborned and got up for the occasion.

78. Vadlamudi Sitharamayya P.W. 10, who also belongs to the Praja Socialist Party, is a clerk in the tobacco company of Kolla Venkataswamy. He worked for the petitioner in localities Nos. 27 and 28 as a canvassing agent. This witness comes forward with yet another curious story, which is not the story as set out in the petition or as spoken to either by the petitioner or by P.W. 9. The bribery complained of, according to this witness, was given on the polling day itself. While he was bringing voters to the polling booth, he found certain voters inside the premises of the tobacco company, and on going inside he found Mittapalli Venkata Kotayya therein. He has the effrontery to say that the said Kotayya bribed the voters to the tune of Rs. 5 per head and took oaths from them on their children that they would vote for the



Congres. In his cross-examination this witness would state that there was commotion outside the tobacco company that voters were being bribed and that there were about 100 persons inside the premises, including some Muslims and Telagas. He is alleged to have reported this incident to the police who were on *bundobust* duty, though he did not lodge any complaint in writing to them. He is further alleged to have told this to the petitioner that evening itself. Though Ex. B2 shows that this witness was a polling agent of the petitioner, he had the effrontery to deny first that he put his signature to any polling agent form, and subsequently to deny, on being confronted with his signature in Ex. B2, that he worked as a polling agent of the petitioner. There is nothing to show that any complaint was lodged with the police about any corrupt practice that day. The version contained in the petition is totally at variance with the evidence of this witness. We have no hesitation in discountenancing the evidence of this interested witness, who appears to have woven out this story on the spur of the moment, while in the witness box.

79. As against this evidence, we have the testimony of R.W. 6 Mittapalli Venkata Kotayya, who is a partner of the firm Kasi Visweswara Tobacco Company. According to his evidence, most of the labourers in this firm, numbering about 400 or 500, are Muslims and there are only about 4 or 5 *Vadderas* among them. He emphatically denies the truth of the allegation that the 1st respondent deposited with him any amount meant for *Vadderas* of *Vaddegudem* or that any amount was paid to the said *Vaddera* through him. He also denied having paid any money to the voters of the *Vaddera* community. He did not contact P.W. 10 that day. Though he is a sympathiser of the Congress Party for 25 years, he did not work for any candidate in the election. He did not render any assistance to the 1st respondent and he was in the premises of his firm on the polling day. The evidence of this disinterested and respectable witness has exposed the falsity of the allegation made by the petitioner in this respect.

80. As has been admitted by the petitioner himself, this locality, which is covered by items 82 to 85 as per Ex. A12, appears to be a stronghold of the Communist Party, as it would be seen that from out of the votes cast in booths Nos. 82 to 85, the Communist candidate (2nd respondent) got as many as 1188 votes, whereas the petitioner got 554 votes, the 1st respondent 446 votes, the 3rd respondent 187 votes and the 4th respondent 10 votes. In the polling booths Nos. 84 and 85, in which the members of the *Vaddera* community cast their votes, the Communist candidate (2nd respondent) secured 970 votes, the petitioner 169 votes, the 1st respondent 133 votes, the 3rd respondent 57 votes and the 4th respondent 5 votes. The allegation that the 1st respondent purchased the votes of these *Vadderas* by bribing them to the tune of Rs. 800 is fanciful and has to be rejected. This issue is, therefore, found against the petitioner.

81. In para 5 of Part I of the list of particulars it is averred that the 1st respondent promised to give one Adavi Hanumantharao a sum of Rs. 500 and that on the said Hanumantha Rao procuring votes of his community he paid that amount to him subsequently. Reference is made in this para to a statue of Mahatma Gandhi. It is not known why this statue is referred to. The petitioner undertook to furnish a list of voters who were thus said to have been influenced prior to the enquiry. But he did no such thing. He did not join issue with the 1st respondent on this incident. Nor did he let in any evidence. His contention in this respect must, therefore, be negatived.

82. Again in para 9 it is alleged that the 1st respondent had promised to give a site to an Association called the *Varthaka Gumastha Sangham*, Guntur as gratification for the members of the said Sangham recording their votes for him. It is further alleged that immediately after the election the members

of the said Association convened a meeting in the premises of the Kanyaka Parameswari Choultry to congratulate the 1st respondent on his success and that in the said meeting those members reminded the 1st respondent of his promise to give a site for their Association. This charge is denied by the 1st respondent and is stigmatised as "a colourful and false plea".

83. The petitioner would say in his evidence that all the members of the Sangham worked for the 1st respondent as he had promised to give them a site for the Sangham. He also filed into Court an issue of the Telugu Daily '*Andhra Patrika*' Ex. A48, dated 10th March 1955 in support of his contention that in a meeting held to congratulate the 1st respondent on his success the 1st respondent was reminded of his previous promise to give a site to this Sangham for constructing its office. The report that appears in this paper relates to a meeting held to congratulate not only the 1st respondent but also the other Congress candidate Sri Meduri Nageswararao, who was returned from Guntur No. 2 constituency. It is reported that in that meeting one Chamarthi Seshia Paparao requested the 1st respondent to assist the '*Varthaka Gumastha Sangham*' in securing a site for the construction of a building for the Association and also to see that their grievances are removed. There is absolutely no reference whatsoever to any prior promise said to have been made by the 1st respondent to give a site for the Association. It was only a request made by a section of the public to their accredited representative to see to the advancement of the cause of the Association, and what the 1st respondent is reported to have stated in his reply address is that he would do whatever that is possible for him if the merchants' *gumasthas* gave him a petition (Arji). This report, which deals with a request made by a section of the citizens of Guntur to their legislator, has been twisted and given a false colouring though there is absolutely nothing in the report to rouse an *iota* of suspicion that any prior promise had been made by the 1st respondent or that he had been reminded of any such promise in that meeting.

84. The 1st respondent denies the allegation that this Sangham comprised only of Vysya members and states that all castes and communities are represented therein. He never offered to get any site for that Sangham. He filed into Court the welcome addresses presented to him and to Sri Meduri Nageswararao in the meeting held on 5th March 1955. Ex. B34 is the welcome address presented to the 1st respondent and it sets out the various meritorious acts done by the 1st respondent, both to Guntur city and to the Andhra State. There is not a whisper made therein to any request for any site for this Sangham. This contention of the petitioner must, therefore, fail and is negatived.

85. Issue 6.—This issue relates to the corrupt practice of treating, said to have been indulged in by the 1st respondent and his agents with a view to influence the votes. There is a clear distinction between bribery and treating. In the case of bribery there is always something in the nature of contract. But treating is entirely a different matter. If a candidate gives refreshment or drink to a man with the intention of confirming his vote and of keeping the party zeal of those believed to be already supporting him, that must be held to be a corrupt treating. Whenever a candidate is either by himself or by his agents in any way accessory to providing meat, drink or entertainment for the purpose of being elected with an intention to produce an effect upon the election, that amounts to corrupt treating. Thus, treating may be defined as the corrupt giving of good or drink or entertainment to persons in order to influence their votes. The English Jurists have defined it as "getting at the voters through their mouths and through their stomachs". Though treating would become corrupt only when it gives the treater influence over the person treated and secures to the former the good-will of the latter, the simple fact that there was a desire to acquire good-will will not constitute

treating as corrupt. The mere giving of drinks in accordance with customary practice will not amount to treating. In order to prove that the offence of treating has been committed, the time at which and the circumstances in which people were fed must be considered. It may also be borne in mind that the openness with which the treating is carried on will not necessarily prevent the same from being corrupt, although it is a material fact to be considered.

86. In para 10 of Part I of the list of particulars the petitioner avers that the 1st respondent opened election offices in all the localities before the election and treated the voters residing in the said localities with tea and sweetmeats whenever and wherever they were opened for the first time, with a view to procure their votes. This is a general allegation, and as a concrete instance of this alleged corrupt practice it is further averred that one such election office was opened in the building in Brodiepeta in which Dr. Amancherla Chalapathirao is residing. This Dr. Chalapathirao previously contested the Municipal election against the Congress candidate and the petitioner, and having failed in the said election, he joined hands with the 1st respondent and agreed to work as his agent in the impugned election. On the opening day of the election office in that building, the elite of Brodiepeta were treated with tea and other refreshments with the ulterior object of procuring their votes and the 1st respondent subsequently procured their votes. There is yet a personal allegation made against Dr. Chalapathirao, and it is averred that as a reward for his procuring votes of the residents of that locality and also for recording his vote to the 1st respondent, he was promised by the 1st respondent that a dispute, which he was then having with his landlord and which was then pending in the District Court, Guntur, would be settled. There is yet another vague averment that the property taxes of certain unnamed gentlemen were also got reduced at a reward for their giving their votes to the 1st respondent. Thus, these averments do not refer exclusively to the malpractice of treating. They also advert to the exercise of undue influence. These allegations are denied by the 1st respondent and it was contended on his behalf that the Brodiepeta locality is an enlightened part of the constituency, wherein reside leaders in all walks of life. The election office in Brodiepeta was opened not by the 1st respondent but by the Town Congress Committee, Guntur Town and Taluk.

87. The petitioner did not advert to these allegations in his chief-examination and in cross-examination he admitted that he was not present when the opening ceremonies of the election offices were performed. He however, added that Messrs. B. Rangarao, D. L. Narayana, Narasimham, Pullayya and several others attended the opening ceremony of the office in the house of Dr. Chalapathirao.

88. Sri R. Laxminarayana P.W. 17 does not advert to this incident in his evidence. P. V. Rangarao P.W. 22, a Brahmin resident of Brodiepeta, spoke to his having attended the inauguration function when the Congress Party opened an office in Dr. Chalapathirao's house. But he does not refer to any treating. This witness admitted in his cross-examination that the voters in Brodiepeta are mostly educated. Admittedly, this witness canvassed votes for the petitioner in the impugned election. Kota Laxminarayana P.W. 23 is the President of the Pleaders' Gumasthas' Association and is also a resident of Brodiepeta. He worked for the Praja Socialist Party in the last election and canvassed votes for the petitioner. The petitioner was for sometime the President of Pleaders' Gumasthas' Association and this witness admits that the pleaders' clerk as a body supported the candidature of the petitioner in the Municipal elections. Curiously enough, this witness also does not speak to any treating at the time of the inauguration ceremony. There is, therefore,

absolutely no evidence in support of this allegation, and even if it were true that some tea and other refreshments were served to those that attended this and such other meetings, it must be held to have been in consonance with the customary hospitality of a trivial and limited character within the meaning of s. 100 (3) (b) of the Act.

89. There is absolutely no evidence that Dr. Chalapathirao had any litigation of his pending before the District Court or that the 1st respondent volunteered to settle that matter. The obscure allegation that the property taxes of "certain gentlemen" were got reduced as a reward for giving votes to the 1st respondent remains a nebulous one. Neither the petitioner nor any of his witnesses spoke to it, nor the 1st respondent cross-examined in this respect. This issue is, therefore, found against the petitioner.

90. *Issue 11.*—This issue relates to yet another corrupt practice defined in s. 123 (6) of the Act. Under that provision, a corrupt practice will be committed in case the following conditions are fulfilled, *viz.*,

- (1) There should be hiring or procuring of any vehicles or vessel.
- (2) This may be either on payment or free.
- (3) The hiring and procuring should be by his candidate or his agent.
- (4) The hiring and procuring can be even by any other person provided the connivance of the candidate or his agent is proved.
- (5) The vehicle should be hired or procured for the conveyance of any elector.
- (6) The purpose of such hiring should be to convey any elector to or from any polling station or a place fixed for poll under Ss. 25 and 29 (1) of the Act.
- (7) The word "vehicle" means any vehicle which is used or is capable of being used for the purpose of road transport.

In the following cases, however, this corrupt practice would not be deemed to have been committed, *viz.*,

- (1) Where the vehicle is used for the conveyance of the candidate, or his agent or the members of his family.
- (2) Where the vehicle is used by a voter or several voters at their joint cost for the purpose of their conveyance to or from any polling station or place fixed for poll, provided the vehicle is such that it is not propelled by mechanical power.
- (3) A voter can travel at his own expense for going to or coming from the polling station or the place fixed for the poll, provided he uses any public transport, vehicle or vessel or any tram car or railway carriage.

If the circumstances alleged or proved do not fall within the wording of sub-section (6) of s. 123 of the Act, this corrupt practice cannot be said to have been committed. There is nothing illegal in the hiring of taxis for the conveyance of canvassing agents. It is the conveyance of the electors which is prohibited under the Act. It has also to be noted that arrangement for the conveyance of the sub-agents of the candidate is not covered by the definition.

91. In para 5 of the petition it is averred that the 1st respondent and his agents hired and procured vehicles for the conveyance of electors to the

polling stations and back to their places. The details of this corrupt practice and the polling stations to which the voters are so conveyed are set out in Part V of the list of particulars, according to which the 1st respondent hired on the polling day, i.e., 18th February 1955, as many as 12 taxies, 11 of which belonging to the Guntur District and one to Hyderabad. The rate at which each of these taxies is said to have been hired is stated to be Rs. 70 per taxi and in all the 1st respondent is said to have incurred a sum of Rs. 840 for hiring taxies on the date of the polling itself. These taxies are alleged to have been used for conveying voters to and from the polling stations in locality Nos. 5, 6, 9, 12, 16, 20, 21, 24 and 26. It is further averred that the 1st respondent also expended large amounts on other kinds of vehicles besides the taxies. Even according to the return of election expenses submitted by the 1st respondent to the Returning Officer, he incurred an expenditure to the tune of Rs. 2259-9-0 in this respect. Though he actually paid Rs. 70 as hire per taxi, he has falsely shown but Rs. 50 per taxi in the return. The 1st respondent denies that he or his agents hired or procured vehicles for the conveyance of voters to the polling stations and back to their places.

92. Against Part D of the abstract of the various items of expenses shown in Ex. A15, the return of election expenses filed by the 1st respondent before the Returning Officer, a sum of Rs. 2259-9-0 is shown as total expenditure incurred in respect of the travelling expenses of the 1st respondent and his agents. Out of this sum, Rs. 590 is said to have been paid by the date of this return and Rs. 1669-9-0 is shown as still outstanding. As per the particulars set out in Part D at page 5 of Ex. A15, a sum of Rs. 610-12-0 was due to Sri T. Sriramulu and another sum of Rs. 1058-12-3 to Messrs. Lakshmi Gasolene Pump, Guntur, towards supply of petrol. The balance of Rs. 590 represents the rent paid for the taxies on 20th February 1955. This is covered by Voucher No. 99, which purports to be a consolidated receipt for payment of hire in respect of 11 cars registered in Guntur district at the rate of Rs. 50 per car and to one car registered in Hyderabad at the rate of Rs. 40. The numbers of these cars as given in this voucher correspond with the numbers given by the petitioner in Part V of his list of particulars, his contention being that all these 12 hired taxies were used by the 1st respondent and his agents for the purpose of conveying voters to the polling stations and back on the following day. There were 102 polling booths arranged in the entire constituency. At each booth were polling and relieving agents, and in addition thereto about four persons in the vicinity of each booth engaged to distribute slips to guide the voters. The polling hours were from 7 A.M. to 12 noon and from 1 P.M. to 5 P.M. These agents and also the workers had to be brought and kept ready, relieved and taken home, brought back at intervals in time from several areas in the city. Several others had to convey information from the booths to the 1st respondent tracing his movements to keep him informed of the conditions of the polling in the various polling stations in the constituency, comprising almost the entire town. The 1st respondent, therefore, contends that the 12 taxi cars cannot be said to be beyond the legitimate needs on a hectic polling day. The petitioner in his turn had engaged two huge vans in addition to a dozen cars and several jutkas and rickshaws to serve his needs.

93. The question that now arises for consideration is, whether the 12 taxies mentioned in Part V of the list of particulars which had been admittedly hired by the 1st respondent on the date of the polling were used for conveying voters to the polling stations in the various localities mentioned therein. Neither in para 5 of the petition nor in Part V of the list of particulars are set out particulars regarding the names of the voters that are said to have been conveyed to the polling stations nor even the names of those who committed this corrupt practice. It is, no doubt, true that the numbers of taxies

hired by the 1st respondent on the polling day are given in the list of particulars. But the said numbers appear to have been copied from Voucher No. 99 submitted along with Ex. A15. It has now to be seen whether and how far the petitioner has proved the commission of this corrupt practice.

94. The petitioner did not advert to this corrupt practice in his examination in chief. Consequently no cross-examination was directed regarding this issue. In the course of his re-examination, however, he was asked about this corrupt practice, and he stated that the 1st respondent engaged not merely 12 taxies as alleged in the petition but 15 taxies for conveying voters to the polling booths. Though he asserted that this was within his personal knowledge, he gave no particulars either of the booths or of the voters that are said to have been so conveyed. In his cross-examination, however, he stated that the ladies of the families known as Lingamallu varu, Mattupallivaru, Noonevaru and Upparasettivaru were conveyed to the polling booths by means of taxies, that the members of Lingamallu, Noone and Tunuguntla families were conveyed in the car driven by Sabu and that the members of the Tatikonda Ramulu's family were conveyed in driver Nawab's car. He was not, however, able to give the name of even a single voter who is said to have been so conveyed.

95. P.W. 6, who was the polling agent for the petitioner in Ward No. 16, vaguely deposed that the Congress Party used 5 taxies in the morning and 3 taxies in the evening on the polling day for bringing voters to the polling booth in addition to 10 jutkas. He was unable to say who brought the voters in the taxies, though he added that the members of the families of Raja Manuri, Uppawaram, Gudivada, Padarthi and Kolla were brought in taxies. In his cross-examination he deposed that on the polling day he worked as the polling agent of the petitioner in booth No. 60 located in the U. L. C. M. Boys School till 12 noon and that thereafter he was engaged in supervision work. Admittedly, the members of the families mentioned by him in chief examination did not vote in this booth. But he says that he saw them being taken to the polling booths, though he does not know in which polling booths they voted. He, however, added that Manuri Srinivasarao and his wife voted in booth No. 60, whereat he was working as agent. But Ex. B40, the marked copy of the voters' list, shows that the wife of Manuri Srinivasarao did not at all cast her vote. He does not know the number of the taxi which brought this couple to the polling booth. Be it noted that on 22nd February 1955, i.e., 4 days after the elections, this witness admittedly published on behalf of the Gutur Town Praja Socialist Party a leaflet Ex. B1. Neither in this leaflet nor in any other leaflet published by him did this witness or the members of the Praja Socialist Party advert to this alleged corrupt practice, which would have by then gained notoriety in the town. And what is more, this zealous champion of the cause of the petitioner did not deem it worthwhile to report this to the authorities, as conveying of voters in hired vehicles is an election offence.

96. P.W. 9, who is said to have canvassed votes for the petitioner in Nagarampalem and Agrapharam area, vaguely deposes that at Nagarampalem he saw four taxies, 10 jutkas and 5 rickshaws being used for conveying voters to the polling booths. But, curiously enough, he does not say who used them and who were the voters that were so conveyed. He did not report to the police or to any other authority about such user. P.W. 10 who is said to have worked for the petitioner in locality Nos. 27 and 28, deposed that the Congress volunteers used to take voters in taxies to the premises of Kasi Visweswara Tobacco company, whereat they are said to have been bribed to the tune of Rs. 5 per head. It is not his case that those voters were conveyed to any polling booth. The taxies were near the Reserve Police lines and Kankaragunta, about two furlongs from the polling booths. The Reserve Police line is in locality No. 28 and it is not one of those localities shown in

Part V of the list of particulars. This witness does not know the numbers of the taxies or the names of the drivers. Nor did he report this incident to any authorities. Beyond stating that taxies and jutkas were being plied for taking voters to the polling booths throughout the polling day, P.W. 11 does not say which Party used those vehicles and who were the voters that were so conveyed. He also did not report this to the authorities.

97. P.W. 13 M. Virayya worked for the petitioner in Wards Nos. 5 and 6 and he gives the names of four persons, who, according to him, were taken in taxies to the polling booths. But he too does not say which Party took them to the polling booth. Admittedly, he worked as the polling agent for the petitioner in the 6th Ward throughout that day from 7 A.M. to 12 NOON and 2 P.M. to 5 P.M. As such, if really he had seen any party using hired vehicles for conveying voters, he would not have failed to bring it to the notice of the police who were on *bundobust* duty near the polling booths. Next, we have the evidence of P.W. 15, who is said to have been in charge of the general supervision of all the polling booths in this constituency on that day, and he says that the Congress Party conveyed the voters by taxies to booths situate in Railpeta, Rasoolpeta, Agrapharam, Arundelpeta, Brodiepeta and Kothapeta. He is alleged to have reported this to the Sub-Inspector of Police. Except his bare *ipse dixit*, there is nothing on record to show that he ever gave any such report to the authorities. When he was so zealous as to arrange for the taking of the Photographs Exs. A20 and A51, it is not known why he should not have got photographs of these taxies taken then and there and thus provide irrefutable material in support of this contention of the petitioner. He does not even know the name of the Sub-Inspector of Police to whom he made the report. He gives out the numbers of about 7 taxies said to have been used for conveying voters and he is said to have entered them in a chit and given that chit to the petitioner that very night. But the numbers we find in the list of particulars are totally different and none of the numbers adverted to by this witness is found therein. We do not believe that this witness ever noticed any taxi carrying voters or noted the numbers of the taxies. Obviously he is indulging in pure guess work to give a colour of reality to his vague evidence and we must say that he has overdone his part.

98. P.W. 19, an avowed agent of the petitioner, who worked for him in Rasoolpeta covered by items 27 to 30 in Ex. A12, states that two taxies and about 10 or 12 rikshaws and 6 or 7 jutkas were being plied to bring voters to the polling booths on behalf of the Congress Party. This witness is an erstwhile *gumastha* of the petitioner and has been supporting the petitioner since 1935. P.W. 20, who is shown to be an avowed political enemy of the 1st respondent, worked as a polling agent for the petitioner in locality No. 20 covered by items 94 to 96 in Ex. A12. He states that the Congress people hired 4 or 5 taxies for conveying voters to the polling booth. But he did not report this to the authorities. He does not know the names of the drivers nor the numbers of the taxies thus used. Lastly, P.W. 22, who is a resident of Brodiepeta, states that Congress people used taxies to convey voters to the polling booths. But he does not know the names of the drivers or the numbers of the taxies.

99. Thus, it would be seen that the evidence in this respect is confined mainly to the staunch partisans and supporters of the petitioner, who also worked as his agents at the election. It is vague and indefinite in the extreme and when the offence is said to have been committed near the polling booths themselves none of these zealots cared to bring it to the notice of the polling officers then and there or reported the matter to the police who were admittedly on *bundobust* duty at each and every polling station. In cases where no report is made either to the Presiding Officer or to the authorities in charge

of Law and Order regarding the alleged commission of the offence, which is said to have been committed near the polling stations by the candidate or his agent, such an omission would certainly cast a grave doubt on the evidence produced at the trial. The owners of the jutkas and rickshaws alleged to have been illegally employed were not summoned for and examined. It is not possible for us to countenance this sort of evidence emanating as it does from tainted source. This constituency covers an area of about 10 square miles and there were as many as 102 polling booths in this area. The 1st respondent says in his evidence that at each polling booth there were two agents for each candidate and about 4 or 5 workers outside the polling booth to give slips to the voters. In all, therefore, there were about 400 workers and 200 agents. Of the 12 taxies that he had hired, 8 were utilised for conveying workers and four kept in reserve. No taxi was used for conveying voters to the polling booths. Nor did he instruct anybody to use the taxies for conveying voters. The families of Noone, Tatikonda, Mattupalli, Lingamallu and Uppirisetti have cars of their own and the members of these families were not taken to the polling booths in taxies. Having regard to the limited time for polling and the hectic nature of the election and the large number of persons that were working for each candidate, both as polling agents as well as canvassing agents, it can by no means be said that the user of 12 taxies by the 1st respondent on the polling day was excessive or that it raises any presumption that any of these taxies were used for conveying voters. We negative the contention of the petitioner in this respect and hold this issue against him.

100. *Issue 7.*—In sub-para 2 of para 4 of the petition, it is alleged that the 1st respondent both by himself and through his agents committed the corrupt practice of undue influence and interfered with the free exercise of the electoral right of the Electors by systematically preaching that the divine displeasure of the deity Sri Kanyaka Parameswari will descend upon all those Vysyas who do not vote for the 1st respondent. It is further averred that such of the Vysyas as did not support the candidature of the 1st respondent would be subjected to social ostracism. The particulars of this corrupt practice are given in Part II of the list of particulars appended to the petition. Sri Maddi Sudarsanam, Chairman Venkatarao and Audinarayana Gupta are leading members of the Vysya community of Guntur. The Vysyas of the city constructed a temple dedicated to their tutelary deity Sri Kanyaka Parameswari with the funds collected from all the other communities. Attached to this temple is a choultry called Kanyaka Parameswari Satram. The petitioner avers that despite the fact that these are public institutions constructed from out of public subscriptions, they are under the management of a Committee consisting of the members of the Vysya community, of which the 1st respondent and his agents Messrs. Sudarsanam and Venkatarao are prominent members. He complains that taking advantage of their position as such, they frequently convened election meetings in the temple, congress and national flags were flown on the Copuram of the said temple at the instance of the 1st respondent in furtherance of his prospects in the said election. The 1st respondent opened his election office in the choultry and hoisted over it both the Congress flag as well as the flag containing the Asoka Chakra, the national symbol. In the meetings convened in the said temple, the 1st respondent and his agents exhorted the Vysya voters to vote only for the 1st respondent on pain of their being rendered objects of divine displeasure and also of being subjected to social ostracism. They were further exhorted to fly Congress flags over their residences and business places. In the area known as Cloth Bazar 75% of the owners of the shops are Vysyas dealing in foreign cloth and they were never the adherents to the Congress cult. But as a result of the appeal made to their caste and communal prejudices they were induced to put up Congress flags on their shops and also to close their shops on the 16th and 17th, just



two days before the election. They also carried a tirade against the petitioner and induced their employees to do similar propaganda. The polling booths set up at Chowtra, Chalamayya Choultry and Dandayya Pantulu Hall are the main booths where the bulk of the Vysyas registered their votes and as a result of the incessant appeal to caste feelings these Vysya voters voted for the 1st respondent only. The 1st respondent would not have succeeded in the election had he not exploited the communal feelings and caste prejudices of the members of his community.

101. These allegations are stoutly denied by the 1st respondent in his statement. The cloth bazaar, according to him, consists of the shops not only of Vysyas but also of Muslims, Reddis, Telagas and Marwaris. The allegation that the leaders of the Vysya community invoked divine displeasure or that the members of that community were influenced by such threats is inconsistent with the innate intelligence and advanced political consciousness of this business community, which was the vanguard of national struggle. The 1st respondent and the other leaders of his community had no need to inflame any communal passion as they have been enjoying in abundance the good-will of all the communities of Guntur and scored several victories against the petitioner on that account. The petitioner had considerable support from the Vysya community many members of which assisted him in his election campaign by speeches and through pamphlets. Some of them aligned to him consequent on the longstanding party factions in the Municipal Council, which were the creation of the petitioner, and canvassed activity. Several Vysyas worked as his election agents on the polling day and a decent percentage of them actually voted for him. Besides, the Communist candidate, i.e., the 2nd respondent, is also a Vysya and a Graduate. Neither he nor his party would have countenanced any threats of divine displeasure or social ostracism. He also procured a good number of Vysya votes. The petitioner also had opened his election office in *Om Kara Kshetram*, which is an institution solely devoted to religious propaganda. He cannot therefore take objection to the 1st respondent using a room for his election office in the choultry, which is distinct from the temple. Shri Sudarsanam is a leading industrial and commercial magnate in the Andhra State, a member of the trade delegations to Europe and Asia and an ex-member of the Madras Legislative Council, occupying high positions in the advisory boards of the Andhra State. Shri Venkatarao is a leading businessman of Guntur and is the elected Chairman of the Guntur Municipality since 1954. It was the petitioner that proposed the name of Venkatarao for Chairmanship as recently as in May 1954 and he worked in association with him at the time of the inauguration of the High Court. Shri Hanumayya Chowdari is an ex-Chairman who defeated the petitioner's candidate for the Chairman's place and he is a tobacco merchant and President of the Town Congress Committee. These persons took active part in the election not because of any particular attachment to the 1st respondent but they along with others felt the need for a stable Government, and the desire to prevent coming into power of minor or opportunist parties out to create obstruction to orderly and progressive government. They never acted as the agents of this respondent in any sense of the term or went out of the way to be directly or indirectly responsible for any corrupt practices.

102. Under this head it is incumbent on the petitioner to prove that either the 1st respondent or his agent or any other person with the connivance of the 1st respondent or his agent

- (1) threatened any candidate or any elector or any person in whom a candidate or elector is interested with injury of any kind, including social ostracism and ex-communication, or expulsion from any caste or community; or

- (2) induced or attempted to induce a candidate or elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure.

If the ingredients thus laid down in s. 123 (2) of the Act are satisfied, it has to be held that there has been interference with the free exercise of the electoral rights of the electors and this mode of undue influence is a major corrupt practice justifying the nullification of the election. Be it noted that, according to the language employed in this provision, it is only a systematic appeal to vote on grounds of religion is made a corrupt practice.

103. Mere running of an election office in a choultry does not mean anything even though that choultry is connected with a religious institution, such as a temple. The holding of election meetings in the choultry does not necessarily raise an inference that in such meetings appeals were made to the religious or communal prejudices of those that attended the meetings. The petitioner does not speak to this alleged corrupt practice in his evidence at all, nor did he examine any witness, who either attended any such meeting or who was influenced by any such systematic appeal to his caste and communal feelings. The 1st respondent admits in his evidence that he has been the President of the Kanyaka Paramaswari Choultry since 1928. He denied that Sri Maddi Sudarsanam ever worked as his agent. He also denied having indulged in any communal propaganda. His election office in the choultry was opened only in the first week of February. There is absolutely no evidence on behalf of the petitioner to show that there was interference in the free exercise of their electoral rights of the members of the Vysya community or any other community, either by threat of invoking divine displeasure or threat of social ostracism. This issue must, therefore, be held against the petitioner.

104. *Issue 8.*—Even with regard to this issue, there is no evidence that any appeal whatsoever was made by the 1st respondent or his agents either through the national flag or through the national symbol. As has been laid down under sub-section (5) of Section 124 of the Act, a systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of or appeal to national symbols, such as the national flag and the national emblem, for the furtherance of the prospects of a candidate's election is held to be a minor corrupt practice, and to succeed in his contention in this respect it is further incumbent on the petitioner to prove that the result of the election has been materially affected by such corrupt practice.

105. The petitioner places strong reliance on a printed leaflet Ex. A-50 bearing the title "OUR VOTES". This leaflet was printed at the Indian Express Press, Mount Road, Madras, and was published by the Congress Central Election Committee, Vijavavada. While appealing to the voters to vote only for the Congress, the author of this leaflet puts two questions, *viz.*,

- (1) Should we vote for the historical Asoka Chakra, which symbolises love and non-violence? Against this question is printed a wheel containing 20 spokes, which, according to the author, is the Asoka Chakra.
- (2) Should we vote for sickle and hammer, *i.e.*, the party symbol of the Communists, which has nothing to do with our history and symbolises hatred and violence. Against this question there is the picture of sickle and hammer.

The author himself furnishes answers to these two questions by appealing that everybody should vote for the Congress if our nationalism is to be protected, and against this answer is the picture of a pair of yoked bullocks, the

election symbol of the Congress Party. On the obverse side are the pictures of Mahatma Gandhi and other leaders of the Indian nation and a question is put whether we should vote for these national leaders, and below this question are the pictures of Stalin and other leading persons of the Communist party, and it is asked whether we should vote for these, who do not belong to our nation. Thus, it would be seen that the main object of the publication of this leaflet was to discredit the Communist Party, which, according to the author, is foreign to our soil and is wedded to hatred and violence, and also to appeal to the national conscience of the voters. Objection is taken to the exhibition of the picture of a wheel in this leaflet. Even if it were deemed that this picture represents the Dharma Chakra or Asoka Chakra that we find inlaid in the *stupas* constructed by Asoka, this wheel by itself is not the national emblem of India. The national emblem adopted by the Government of India is the Lion Capital of Asoka, comprising three lions on a pedestal, on which is engraved Dharma Chakra with a horse on one side and a bull on the other. Under this pedestal is engraved the motto "*Satyameva Jayathe*" in Devanagari script. Asoka Chakra is only a part of this symbol and it does not by itself constitute the national emblem. The author of Ex. A50 by presenting the picture of Asoka Chakra in this leaflet did not make any appeal through it as a national emblem. He used it only as a contrast to the emblem of the Communist Party as symbolising love and non-violence. According to him, the fight in that election was between love and non-violence on the one hand and hatred and violence on the other. It is open to a political party to criticise the basic policy of the party that opposes it in any election and no exception can be taken to such criticism.

106. Ex. A51 is the photo of the *simhadwaram* or the main doorway of the choultry Kanyaka Parameswari Satram and over that doorway we find two flags crossing each other. The petitioner contends that these are national flags and that they were displayed by the 1st respondent during the election period, and thus through these national flags the 1st respondent made appeal to the electors. But when we visited this building on 30th July, 1957, we found that these are not actual flags put there but only paintings of the flags, which have now become faded. This painting must have been done long prior to the election and the 1st respondent can in no sense be held responsible for them. It is unnecessary to probe into the contention of the 1st respondent that these flags are not national flags in the strict sense of the term as they do not bear the features of the standard national flags and contain the prescribed number of spokes in the wheels.

107. Exs. A52 and A53 are photos of Kanyaka Parameswari temple and the choultry. In Ex. A53 we find a flag with three stripes flying on a tree in that vicinity. Similarly we find one such flag flying on the pinnacle of the building in Ex. A52 and another on a tree. According to the contention of the 1st respondent, these are but Congress flags and not national flags. We do not find the Asoka Chakra in any of these flags. No exception can be taken to a party candidate displaying his party flag or his party symbol.

108. The contention of the petitioner that national flags were unauthorisedly hoisted on the buildings when election meetings were held by the 1st respondent and his party is not proved. There is also no acceptable evidence that election meetings were held either in the temple of Kanyaka Parameswari or in the Choultry attached thereto. P.W. 15 vaguely states that Congress meetings were held in that choultry and that a big national flag was hoisted on the building of the choultry. But the photo taken by him does not show any such national flag. His assertion that the flag shown in Ex. A51 is not a painting but that it is the photo of two flags tied together is belied by what we ourselves saw in the course of our local inspection. He does not

recollect what the photo Ex. A53 portrays, nor does he remember for what purpose it was taken. P.W. 18 speaks to the distribution of leaflets (Ex. A50) in a meeting held in the Sarada Nikathan School. But he does not say that the said distribution was made by the 1st respondent or any of his agents. According to the evidence of P.W. 20, the main Congress election office was located in the Kanyaka Parameswari temple. But it is not the case of the petitioner himself that the temple was used for election purposes. The evidence of this witness that a national flag was hoisted on the temple and was, also painted on the door of the choultry stands self-condemned, as it is not the case of the petitioner himself that there is any painting of the national flag in the premises of the temple. Our finding on this issue is, therefore, in the negative.

109. *Issue 9.*—Any systematic appeal made on the ground of caste, race, community or religion is a minor corrupt practice within the meaning of s. 124(5) of the Act. If the 3rd respondent, who is a Muslim candidate and who contested the election as an Independent, made any such appeal to the members of his community, it is not known how the 1st respondent can be held responsible for the same. In para 4(2)(a) of the petition, it is averred that the 1st respondent and his agents made appeal to the religious sentiments of the Muslim voters to vote for the 3rd respondent. On the face of it, this suggestion that one candidate canvassed for the support of his rival candidate is absurd. But the petitioner would contend that the 1st respondent was responsible for setting up a Muslim candidate, the 3rd respondent, against him with a view to wean away the support of the Muslims of Guntur from the petitioner. He elaborates this contention in para 4(9) of the petition, wherein it is averred that during the previous election 75 per cent. of the Muslim voters voted in his favour and contributed to his success. Seeing that his chances of success against the petitioner were remote, the 1st respondent induced the 3rd respondent who belongs to Nellore District and who is not even an elector in Guntur District, to file his nomination paper by falsely promising to secure Congress support "and other kinds of gratification for contesting the election". When the 3rd respondent ultimately was not given the Congress ticket, he felt that he was duped by false promises made by the 1st respondent's agents and partisans and he wanted to withdraw. But he was, however, beguiled into continuing to contest by the 1st respondent and his agents and intensive and incessant appeals were made to the religious feelings of the Muslims by the agents of the 1st respondent.

110. According to the petitioner, if the 3rd respondent had not been made to contest the election, most of the Muslim voters would have voted for the petitioner as they did before and he would have obtained the majority of valid votes. In para 2 of Part II of the list of particulars, the petitioner purports to give details of the commission of this alleged corrupt practice. According to the averments made therein, Messrs. Salam and Chandni Masthan were the accredited agents of the 1st respondent in his election campaign. They convened meetings in the Muslim locality and induced the *Muthawallies* of the Mosques situate in the localities known as *Potturivari Thota Chinna Bazaar*, *Sangadigunta* and near the *Red Tank* to hold similar meetings and to appeal to the religious sentiments of the Muslims who visited the said mosques. The 3rd respondent selected as his election symbol "star" which is the emblem of Khilafat and Muslim Brotherhood. In those meetings the Muslims were made to swear by Koran that they would vote only for the Muslim candidate, and *Kalma* was also read in the said meetings. As a result of this campaign, the Muslims voted only for the 3rd respondent and a bulk of them were obliged to refrain from voting lest they should incur the wrath of the members of their community. The 3rd respondent secured

more than two-thirds of the total number of votes polled in localities Nos 18 to 21 where Muslim voters predominated. The petitioner, therefore, complains that the 1st respondent and his agents interfered with the free exercise of the electoral right of the electors and is guilty of the corrupt practices mentioned in S. 123 (2) (a) and (i) and (ii) of S. 124 (5) of the Act.

111. All these allegations were vehemently denied by the 3rd respondent, who stoutly refuted the suggestion that there was any collusion between him and the 1st respondent. Nobody induced him to file his nomination on the promise that he would get Congress support. Nor did anybody beguile him into continuing to contest the election on any false promises. He left his native district Nellore for good and settled down at Guntur, whereat he has intimate connections, his relations being leading citizens of that place. He honestly and sincerely believed that his chances of success in the election were many and he hoped to get Congress support. But when Sri Maddi Sudarsanam was chosen by the Congress as their candidate, he had to give up the idea of contesting the election. But subsequently when it was announced that the 1st respondent was chosen by the Congress, despite the instructions issued by the Congress High Command, he resolved to contest the election to demonstrate his displeasure at the injustice done to him by the Pradesh Committee in disregard of the advice of the Congress Central Parliamentary Board. He has no knowledge of any meeting convened by Messrs. Salam or Chandni Masthan, nor of any appeal made to the religious sentiments of the Muslim voters. The election symbol of this respondent, *i.e.*, the 'star', is not the emblem of Khilafat or Muslim Brotherhood, the symbol of Khilafat being crescent. This symbol of 'star' was allotted to him from the panel of 8 symbols that were submitted by him from out of the recognised list of symbols.

112. The 1st respondent denied that the Muslim voters of Guntur were at any time exclusively attached to the petitioner. In the Municipal elections of 1955 the petitioner could secure for his party only six seats out of 34 contested by him as against 22 seats secured by the 1st respondent's party. Out of four Muslims that were set up by the petitioner in the Muslim area, only one Muslim succeeded while his three other nominees were routed by the candidates set up by this respondent's party. The petitioner had, therefore, no vested right in the Muslim electorate. It is false to allege that the 3rd respondent was set up by anyone to subserve the interests of this respondent or that the 3rd respondent was beguiled in any manner. Sri Salam and Sri Chandni Masthan did not render any kind of assistance to this respondent in the election. As a matter of fact, even after the selection of this respondent by the Andhra Pradesh Congress Committee the 3rd respondent made mighty efforts to get himself nominated, displacing this respondent. Some of the leading Muslims of Guntur waited on deputation on the members of the Central Congress Parliamentary Board and left no stone unturned to get the selection of this respondent set aside. Even thereafter most leading Muslims incessantly worked for the 3rd respondent's success. The 3rd respondent and others carried on a tirade against this respondent. The 4th respondent, who is a Harijan candidate, openly withdrew in favour of the 3rd respondent.

113. In proof of the bitter competition between him and the 3rd respondent, the 1st respondent placed reliance upon certain leaflets published for and on behalf of the 3rd respondent during his election campaign. Ex. B14 issued by the 3rd respondent on 5th February 1955 complains against the Provincial Congress Committee for having disregarded the advice of the Central Parliamentary Board in not selecting him, though he belonged to a minority community. This complaint was reiterated by the 4th respondent in Ex. B15, dated 10th February 1955 wherein he announced his withdrawal from the contest and appealed to the voters to support the candidature of the 3rd respondent, having regard to the fact that he belongs to a minority community.

But this appeal was countered by the members of the Guntur Christian Federation in a leaflet Ex. B16, dated 11th February 1955 who took exception to the 4th respondent withdrawing from the contest. The Muslims of Guntur who belong to the Congress Party published a leaflet Ex. B17, dated 4th February 1955, condemning the propaganda made on communal lines and appealing to the voters to vote only for the Congress. A similar appeal was made by the Youngmen Muslim Association, Vijayawada, as per Ex. B18, dated 17th February 1955. Thus, it will be seen that right from the beginning up to the date of the polling propaganda was indulged in on communal lines and was countered by certain Congress minded Muslims. It is, therefore, preposterous to contend that the 3rd respondent was set up by the 1st respondent with a view to wean away the Muslim support from the petitioner's cause or that the 3rd respondent was beguiled into continuing the contest by any false promises.

111 The evidence of the petitioner so far as this issue is concerned is to the following effect:—

“There are two factions at Guntur based on communal differences. The persons whom I defeated in the previous Municipal elections, *viz.*, Mr. Salam, Mr. Sudarsanam, and Mr. Hanumayya and Mr. Punnayya ranged themselves against me with a view to defeat me. I succeeded in the 1952 elections on account of the solid support by the Muslims. So they conceived the idea of setting up a Muslim candidate against me to wean away Muslim support. R-3 is a native of Nellore. He came to Guntur when the High Court was constituted at Guntur. He was a voter in the Nellore constituency. He got his vote transferred to Guntur constituency. He was persuaded by my opponents to contest the elections as against me. He was vacillating. At one stage he announced his intention not to stand and the Muslims consequently resolved to support my candidature in a public meeting held under the Presidency of Sri Ganga Sharan Singh.”

The petitioner stops at this without speaking to the other wild allegations made in his petition. In his cross examination he admitted that the 3rd respondent was then the Secretary of the Guntur Bar Association and had influential connections at Guntur, his father-in-law Mr. Sulaiman being a businessman of Guntur. He blandly admitted that he has no personal knowledge of any inducement held out either by the 1st respondent or by anybody to the 3rd respondent. From his evidence in cross-examination we learn that Mr. Salam, who is prominently referred to in the petition, is a member of the Muslim League and was also a member of the Legislative Council in 1947.

115. P.W. 12, a Muslim resident of Guntur, was examined in this connection. He is a member of the Praja Socialist Party and he opened an election office of that party at Ahmadnagar in Guntur. He states that at the time of the inauguration of the office he invited all the Muslim leaders who resolved to support the Praja Socialist Party candidate in the election. This was about 17 days before the elections. But on the 7th day of the opening of the election office, the Muslim elders approached the 3rd respondent at his office and asked him to close the office as Muslims must vote only for a Muslim candidate, but he refused to close the office. On the following day the 1st respondent and the Municipal Councillor Nagabhushanam sent for him while he was working at his smithy (he being a blacksmith) and they also asked him to close the office. This evidence does in no way establish any relation between the 3rd respondent and the 1st respondent. Each of them might

have asked this witness not to support the candidature of the Praja Socialist Party candidate and each might have canvassed his support in his individual capacity. This witness is a strong partisan of the petitioner, having worked for him both in the Municipal elections as well as in the Assembly elections.

116. The Muthawalli of the Big Mosque situate in Lalapet, Guntur, was examined as P.W. 16, and he says that there are about 6,000 voters in his locality, half of them being Muslims, and adds that the Muslims supported the Praja Socialist Party in the 1952 elections. This witness worked for that party both in 1952 as well as in 1955 and states that very few Muslims supported the Praja Socialist Party in the elections of 1955 as they all supported the candidature of the 3rd respondent, who, according to him, was set up by the Muslims on communal grounds. He speaks to the 3rd respondent making appeal to communal feelings in his election speeches. He also says that in two of the meetings held, the Muslim leaders made appeals to communal sympathy. He makes not a whisper to the alleged collusion between the 1st respondent and the 3rd respondent or to any of the agents of the 1st respondent making any appeal to the communal passions. On the other hand, he says that when the Congress members canvassed their votes, the Muslims said, "All right. We will see." The evidence of this witness instead of in any way furthering the case of the petitioner, has done considerable damage to it.

117. The allegation that the 3rd respondent procured Muslim votes by appealing to their communal feelings is very meagre and threadbare, spoken to by a solitary witness, who is a staunch partisan of the petitioner. We are not concerned in this case with any corrupt practice said to have been indulged in by the 3rd respondent. No connection has been established between the alleged corrupt practices and the 1st respondent. Even if it was proved that the Muslims supported the candidature of the petitioner in 1952, it does not necessarily follow that they would have supported him in 1955 elections also but for the 3rd respondent standing as a candidate. The allegation that the 1st respondent was responsible for setting up the 3rd respondent is found to be baseless. We hold under this issue that it is not proved to the hilt that the 3rd respondent procured any Muslim votes by appealing to their communal feelings. We further hold that even if it were true that the 3rd respondent secured the votes of the Muslims by appealing to their communal prejudices, that has not in any way materially affected the result of the election.

118. *Issue 10.*—This issue relates to the alleged corrupt practice indulged in by the 1st respondent and his agents in the publication of false statements relating to the personal character and conduct of the petitioner, which, according to the petitioner, were reasonably calculated to prejudice the prospects of his election and which had actually resulted in a large number of electors being misled and abstaining from voting. The details of such statements and the manner in which they were published are set out in Part III of the list of particulars. Reference is made in the list to:

- (1) A set of pamphlets bearing no date, which were printed and distributed under the names of Dr. A. Chalapathirao, Chairman, Sri Venkatarao, Sri Gupta, etc., who, according to the petitioner, are the accredited agents of the 1st respondent and who published these objectionable pamphlets with the connivance of the 1st respondent. According to the averments made in these pamphlets, the petitioner was a traitor not only to Sri T. Prakasam but also to the country. Sri Prakasam himself called the petitioner a traitor and had exhorted the voters to give their votes only to the Congress nominee.
- (2) Another set of pamphlets bearing no date under the national symbol Asoka Chakra appealing to the people to vote for Asoka

Chakra on the ground that it stood for love and non-violence and exhorting that to vote for Asoka Chakra is to vote for the Congress.

- (3) On 17th February 1955 the 1st respondent got published pamphlets appealing to the Brahmin community in the constituency under the names of Dr. Chebrolu Hanumiah, the President, and Sri Punniiah, the Secretary, of the Town Congress Committee, both of whom are agents of the 1st respondent in the election. In this pamphlet the 1st respondent has deliberately suppressed the name of the printer and the Press where it was printed, and this itself is an offence which renders the election of the 1st respondent void. The gist of the said pamphlet is as follows:—

“The petitioner is a traitor punished by the Congress. The Brahmins did not vote for this petitioner when he contested the general election in 1937 against Sri Konda Venkatappayya Pantulu. The petitioner and his party will never succeed in the ensuing general election. The petitioner is aspiring for the Chief Ministership. When top leaders like Sri Prakasam and Sri Tanneti Viswanadham joined the Congress as per the directions of Sri Pandit Nehru, the petitioner alone had dared to defy the Congress. Voting for the petitioner is therefore a traitorous act not only to the Congress but also to the country. The petitioner belongs to a party of conspirators who got their deserts in Travancore and Cochin. All the Brahmins therefore should vote for the Congress and thus maintain the name and fame of Sri Konda Venkatappayya Pantulu. The curse of Sri Prakasam is on the petitioner.”

These statements are, according to the petitioner, false to the knowledge of the 1st respondent and his agents and they were deliberately made to prejudice the prospects of the election of the petitioner. To call the petitioner a traitor to the country is by itself a malicious slander. A scrutiny of the ballot papers relating to the 5th and 6th localities, where Brahmins predominate, will disclose that two-thirds of such voters abstained from going to the polling booths as a result of their being misled by such false statements. It is, therefore, contended that the 1st respondent gained success in the election by resorting to the corrupt practices mentioned in sections 123 (5) and 124 (5) of the Act and that therefore his election is liable to be set aside.

119. In answer to these allegations, the 1st respondent avers in his written statement that he is not responsible for the publication of the pamphlets referred to by the petitioner. Nor did he connive at the publication of any such pamphlets. The name of no particular Andhra political leader—not even that of Sri Prakasam—does command any blind confidence with the electorate. Localities Nos 5 and 6 comprising of Arundelpeta and Brodiepet of this constituency is the area where the elite of the intelligentsia of the town reside. The claim of the petitioner that he had total support in this locality is negated by the results in the prior Municipal elections held in 1952, where in all the three candidates set up by him were defeated in these areas. Voters of Guntur know that the petitioner had drifted away from Sri Prakasam and his party and gave battle to him on crucial occasions in the Andhra State Assembly and finally voted him down from power necessitating fresh elections in the State. During the general elections of 1955, Sri Prakasam rejoined the Congress and was contesting a seat in the Ongole constituency as a nominee of the Congress. The petitioner and his workers carried on incessant propaganda that Sri Prakasam nevertheless favoured the candidature of the petitioner and thus canvassed for support in the name of Sri Prakasam. This created confusion and a slur on the grand old Andhra leader. To controvert



the said false propaganda, Sri Venkatarao and others might have published pamphlets now relied on by the petitioner. The 1st respondent is not personally aware of the facts averred in the said pamphlets. The petitioner has, therefore, to strictly prove the falsity of the contents of the pamphlets. Those who subscribed to the pamphlets did so on their own account and not at the instance or advice or even with the knowledge or connivance of this respondent. It is not true that this respondent or any one on his behalf distributed those pamphlets or got them distributed at any time. If any little stir had been caused by the publication of the said pamphlet, the petitioner and his agents neutralised the same by publishing counter leaflets. No personal attack was ever made on the petitioner. On the other hand, this respondent pocketed imputations made against him by the petitioner and his hangers-on by speeches and pamphlets to create prejudice and confusion in the ranks of the electorate.

120. The 1st respondent never got printed, published or distributed in the constituency any pamphlet bearing the national symbol. The Andhra Pradesh Congress Committee, the Congress Central Election Committee, Vijayavada, the Guntur District Congress Committee, and the Guntur Town Congress Committee were publishing their election literature from time to time. This respondent has no control over those political bodies and it is for the petitioner to prove as to who published the same, the context in which they were published and that the 1st respondent was in any way responsible for any such publication or distribution or that he or any one on his behalf connived at such publication or distribution. Sri Hanumiah Chowdari and Sri Macherla Punniiah, the President and Secretary of the Guntur Town Congress Committee were not agents of this respondent. As office holders of a Congress body and interested in the success of the Congress, they had their own independent machinery, programme and methods of work under the direction of the Pradesh Committee. This respondent is not aware when the pamphlets dated 17th February 1955 were published or distributed. He did not see any such pamphlets during the election period. It is not true to say that any voters abstained from voting by reason of this pamphlet. On the other hand, the petitioner scored distinct majority in these localities, which he secured by incessant appeals made by him and his Brahmin supporters who made door-to-door canvassing, exciting caste and sectarian feelings. This respondent had issued definite instructions to the several presses in which his election matter was printed that they should print the name of the Press and the Printer thereon. If in any particular circular there was any such omission, it was contrary to the specific instructions issued by this respondent. As the particular pamphlet referred to in the petition was not printed at the instance of this respondent or with his knowledge or connivance, he cannot be held responsible for any omission or mistake therein.

121. As has been laid down under sub-section (5) of section 123 of the Act, the publication by a candidate or his agent or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election is a major corrupt practice. The systematic appeal to vote or to refrain from voting on grounds of caste, race, community or religion or the use of or appeal to national symbols for the furtherance of the prospects of a candidate's election is a minor corrupt practice within the meaning of sub-section (5) of section 124 of the Act. Under sub-section (3) of section 125 of the Act, the issuing of any circular, placard or poster having a reference to the election, which does not bear on its face the name and address of the printer

and publisher thereof, is an illegal practice. In the case of this major corrupt practice, the burden of proving the necessary facts and ingredients is on the petitioner and he has to establish:

- (1) that the publication of any impugned pamphlet was by the candidate or his agent or by any other person with the connivance of the candidate or his agent,
- (2) that the said impugned leaflet amounts to a publication of a statement of fact, which is false as a matter of fact and which the publisher either believes it to be false or does not believe it to be true;
- (3) that the said statement was in relation to the personal character or conduct of the candidate as distinguished from his public conduct in connection with his political or other activities or in relation to his candidature or withdrawal; and
- (4) the said statement is to be one, which is reasonably calculated to prejudice the prospects of the candidate's election

122. In order to determine the effect of a false statement, the average intelligence of a reader for whom the publication was meant is an important factor. It must also be borne in mind that there is a vital difference between the personal conduct of a candidate and his public or political conduct, and in the case of a charge of false statement, it must be sustained by a false statement directly relating to the personal character or conduct of the candidate and not one which by indirect implication may be understood as satisfying the mandatory provisions of law. Furthermore, the reference to personal character or conduct of the candidate must be explicit and derivable from the plain meanings of the words used. To hold otherwise would be to nullify the effect of the qualifying clause "in relation to the personal character or conduct of any candidate", for, there can hardly be a false statement of fact that can be made relating to a person, which cannot, by a more or less elaborate process of reasoning, be shown to contain an indirect reference to the personal character or conduct of that person. In order that a statement should come within the mischief of the definition of "false statement" it must be a statement of fact as opposed to a statement of expression of opinion. The statement of fact must further be in relation to the personal character or conduct of the candidate. Where a statement did not relate to the personal character or conduct of a candidate but refers, on the other hand, to his public conduct in his public capacity as a leader of a party, that statement is not covered by the definition. Bearing these well established principles in mind, we shall now consider whether and how far the petitioner has succeeded in establishing these charges.

123 While adverting to this ground in his evidence, the petitioner refers to two leaflets, Exs A54 and A55, and also to Ex A56, the counter leaflet published by his partisans, and he states that as a result of the publication of Exs. A54 and A55 most of the Brahmin voters abstained from exercising their franchise. He relies upon the following circumstances as constituting the background against which the allegations made in these impugned leaflets have to be viewed. The petitioner joined the Congress as long ago as in 1922 in obedience to the call of Mahatma Gandhi and he was elected as the Secretary of the Andhra Provincial Congress Committee in 1922. He was the Chairman of the Guntur Municipality from 1923 to 1930, when he was arrested during the Salt Satyagraha Campaign. He was reelected as Municipal Chairman in 1933 and continued to be in that office till 1937 and he resisted the British regime by hoisting the national flag over the Municipal Office. Ultimately when the Municipal Council was superseded, he dissociated

himself with the local politics. In 1949 there were two groups in the Congress Party known as the "Official Congress group" and the "Ministerial Congress group", and these group politics prevailed in the Municipal elections also. The petitioner ranged himself with the Official Congress group and had, therefore, to fight against the Ministerial Congress group in the Municipal Council. When Sri N. Sanjiva Reddi was elected as the President of the Andhra Provincial Congress Committee in 1950 or 1952, the petitioner, following the lead of Sri T. Prakasam, resigned from the Congress Party and joined the newly constituted Krishik Mazdoor Party under the leadership of Sri Kripalani. Just before the general elections of 1952 there was split between Sri N. G. Ranga and Sri T. Prakasam and as a result of that split Sri Ranga broke away from the Congress Party and formed a new party known as the Krishik Lok Party. Subsequently, a new party known as the Praja Socialist Party was constituted under the leadership of Sri Prakasam and at the time of the inauguration of the Andhra Province on 1st October 1953 Sri T. Prakasam was the President of the Praja Socialist Party. He, however, left that party when he became the Chief Minister of the newly constituted province, but the petitioner remained in the Praja Socialist Party under the leadership of Sri P. V. G. Raju. Some months after the formation of the first Cabinet for the newly constituted province, a controversy arose with regard to the location of the Andhra High Court. The petitioner incurred the displeasure of the ruling party by proposing that the High Court should be located at Guntur. When Sri P. V. G. Raju and Mrs. Latchanna were arrested by the Andhra Government, the petitioner appealed to Sri Prakasam, the then Chief Minister, to release Mrs. Latchanna, but there was no response to his appeal. In November 1954, a vote of no confidence was tabled to challenge the policy of the Government with regard to Prohibition, and as a result of the passing of the said vote of no confidence Sri Prakasam's ministry fell, necessitating the holding of a general election in 1955.

124. Thus, the petitioner happened to fall out with Sri Prakasam, whom he considered as his leader previously. A United Congress Front was formed by the merger of the Krishik Lok Party and the Praja Party in the Congress Party with a view to defeat the Communist Party in the election, while the Praja Socialist Party, to which the petitioner adhered, did not choose to join this Front and fought the elections on its own lines. Sri Prakasam contested the elections in the Ongole constituency for and on behalf of the United Congress Front, and in the first week of February 1955 he was carrying on his election campaign in the Ongole constituency. Certain Congress workers in Guntur, including Sri Tunuguntla Venkatarao, Dr. Chelapathirao and others went to Ongole to meet Sri Prakasam with a view to invite him to extend his tour to the Guntur constituency also. They were able to meet him at Bezwada in the evening on that day and requested him to visit the Guntur constituency. While making that request, they are alleged to have told him that the petitioner who was opposing the Congress candidate in the Guntur constituency was using the name of Sri Prakasam in support of his candidature and that that had created some confusion in the minds of some of the voters. According to the averments made in Ex. A55, Sri Prakasam became enraged and said in any angry tone, "I am not responsible if Sri Narasimharao is using my name in that manner. He has not only betrayed me but has also done injury to the country. I have, however, great confidence that the citizens of Guntur would see that he would have no place as a consequence of his act." His message to every one was to cast his sacred vote in favour of the Congress candidate and secure his success. The signatories of Ex. A55 purport to have conveyed this message of Sri Prakasam to the citizens of Guntur and appealed to them by means of Ex. A55 to vote for the Congress candidate. This leaflet bears no date. Presumably it must have been issued on some date between 10th February 1955 and 18th February 1955.

125. A day prior to the polling day, *i.e.*, on 17th February 1955, Sri Chebrolu Hanumiah and Sri Macherla Punniiah, in their capacities as President and Secretary respectively of the Guntur Town Congress Committee, issued another leaflet Ex. A54, which purports to be an appeal made to the Brahmins of Guntur. In that leaflet they adverted to the Assembly election held in 1937, wherein Sri Deshabhaktha Konda Venkatappayya was chosen by the Congress as its candidate. The petitioner, who was till then a Congress man, went out of that party on the ground that that party did not give him its ticket, and stood against the Congress candidate and was defeated on account of the steadfastness and the enthusiasm displayed by the citizens of Guntur in supporting the candidature of Sri Deshabhaktha Konda Venkatappayya. It is further averred that the Brahmin ladies and gentlemen exhibited great zeal in that previous election in supporting the candidature of Sri Deshabhaktha and thus contributed to his success. They were requested in this leaflet to exhibit the same zeal and enthusiasm in favour of the 1st respondent, who is contesting the election as a Congress candidate. It is exhorted that it is their sacred duty to see to the success of the Congress party and to the defeat of the petitioner. Reference is made in this leaflet to what Sri Prakasam is alleged to have announced at Bezwada to the following effect:

"Sri Narasimharao betrayed not only him but also the country. He should not therefore succeed in the election. All the citizens of Guntur and especially the Brahmins should work steadfastly to defeat Sri Narasimharao."

Further on, it is averred that in the election of 1937 Sri Narasimharao, opposing the Congress in the name of the Political Sufferers Party (P.S.P.) was defeated and that the same result would follow as he is now opposing the Congress in the name of the Praja Socialist Party and that the words of Sri Prakasam which are in the nature of a curse would not prove futile.

126. Further on it is recited in Ex. A54:

"Shri Pandit Nehru has appealed to the Andhras to resist the onslaught of the Communists, which is threatening Andhra Desa, and to help in the establishment of a permanent democratic Government. Pursuant to that appeal, Sri Prakasam Pantulu, Acharya Ranga and Sri Viswanadham have joined hands with the Congress and are strenuously fighting against the Communists with a view to establish Congress victory. But Sri Narasimharao has not joined the Congress, but, on the other hand, he is opposing the Congress. The voters will ponder over what his intention is. Sri Narasimharao has an evil hope to himself become the Chief Minister of Andhra, dislodging the Andhra Kesari. His calculations are these:—

The Communist and the Congress Parties are likely to have equal strength in the Andhra. In that event, if his party, *i.e.*, the Praja Socialist Party, were to refuse to join hands with the Congress, there would be no other go for the Congress but to ask for the formation of the Cabinet by the Praja Socialist Party, as has been done in the State of Travancore-Cochin. Sri Narasimharao is, therefore, having day dreams that, in that event, there would be chance for him to become the Chief Minister, and with these calculations he has refused to join the Congress Party. His calculations have misfired, as in the elections in the Andhra the Congress is securing victory after victory and the Communists are being routed. At the best, the Praja Socialist Party may secure about half a dozen seats and hereafter there is no need for the Congress to woo the Praja Socialist Party. With a view to

teach a lesson to such a scheming party, the Congress has dislodged this party in Travancore-Cochin and has established its Government there. Thus, this party has now become a party, which has lost the favour of either of both the parties, the Congress and the Communist. Sri Prakasam has, therefore, predicted that the defeat of Sri Narasimharao, who is labouring under such calculations, is certain. To vote for Sri Narasimharao, who is a candidate set up by such a party, is to do disservice both to the Congress as well as to the Country. It is not necessary to dilate upon this appeal to the members of the Brahmin community, who are not only educated but are also endowed with all round capacity. We request, therefore, all the members of the Brahmin community not only to cast their votes in favour of the Congress Party but also to induce others to vote for the Congress and thus establish the supremacy of the Congress and proclaim the reputation of the Desa Bhakta."

The signatories of this pamphlet are Sri Chebrolu Hanumayya, President of the Guntur Town Congress Committee and Sri Macherla Punniiah, the Secretary.

127. The 1st respondent disowns his responsibility for the publication of this impugned pamphlets and, according to his evidence, the leaflet Ex. A50 was published by the Congress Central Election Committee, over which he has no control, nor has he any control over the Guntur Town Congress Committee, who published Ex. A54. He even goes the length of asserting that he did not come to know of these leaflets till after the election. He was in no way responsible for the distribution of these pamphlets. It has now to be seen whether this contention of his is valid in law. Ex. A55 purports to have been published by six members of the Congress Party including Sri Tunuguntla Venkatarao, who was admittedly an agent of the 1st respondent. Ex. A54 purports to have been published by the President and Secretary of the Town Congress Committee while Ex. A50 was published by the Congress Central Election Committee, Vijayavada. The 1st respondent was a nominee set up by the United Congress Front.

128. The law of agency in election has been held to go much further than the ordinary law of principal and agent, and a candidate at an election is responsible generally for the actions of those who, to his knowledge, for the purpose of promoting the election, canvass and do such other things as may tend to promote his election; providing that the candidate or his authorised agent has reasonable knowledge that these persons are so acting with that object. In Halsbury's Laws of England, Second Edition, Volume 12, it is observed at page 245:

"A candidate's liability under the parliamentary common law of agency depends upon a peculiar principle, special to this matter and distinct from the principles prevailing in criminal or civil law of agency. The candidate's liability under this principle may extend to the acts of every person who is *de facto* a member of the staff, which is conducting the election and whose services are directly or indirectly recognised or made use of by the candidate or his election agent, whether such person be paid or unpaid."

Again in the Law of Parliamentary Elections and Election Petitions by Hugh Fraser, Third Edition, it is observed at page 73:

"That is putting it into a very simple form, but with regard to election law the matter goes a great deal further, because a number of persons are employed for the purpose of promoting an election who are not only not authorised to do corrupt acts but who are

expressly enjoined to abstain from doing them, nevertheless the law says that if a man chooses to allow a number of people to go about canvassing for him, to issue placards, to form a committee for his election, and to do things of that sort, he must, to use a colloquial expression, take the bad with the good. He cannot avail himself of these people's acts for the purpose of promoting his election, and then turn his back, or sit quietly by, and let them corrupt the constituency."

It is not, therefore, necessary, in order to prove agency, to show that the person was actually appointed by the candidate or that he was paid, the crucial test being whether there has been employment or authorisation of the agent by the candidate to do some election work or the adoption of his work when done. General canvassing is strong evidence of agency. There may be a political association existing for the purpose of the political party, advocating the cause of a particular candidate and largely contributing to his success, yet in no privity with the candidate or his agents, and an independent agency and acting on its own behalf. It has been said that such an association would not be one for whose acts the candidate would be responsible. There may, on the other hand, be a political association advocating the view of a candidate, of which that candidate is not a member, to the funds of which he does not subscribe, and with which he personally is not ostensibly connected, but at the same time in intimate relationship with his agents respecting the canvassing of voters, and the conduct of the election, and largely contributing to the result. Such an association could be held to be one for whose acts the candidate was responsible. The moment it appears that a candidate or his election agent adopt, either individually or collectively, the work that is done by that association in such a manner as to benefit by its agency *quoad* the election, the association will become the candidate's agent.

129. It may be that the 1st respondent had no knowledge of the publication of these leaflets. But still as one of them was published by his recognised agent and the other by an organ of a political party which had set him up as a candidate to contest the election, he cannot be permitted to dissociate himself with the publication of these pamphlets.

130. The next question that arises for consideration is, whether the statements of fact contained in these leaflets are false as a matter of fact and whether the publishers either believed them to be false or did not believe them to be true. The allegation made in both these pamphlets that the petitioner was using the name of Sri Prakasam Pantulu to canvass the support of the voters of Guntur was not denied by the petitioner in his evidence. On the other hand, the averments made in the counter-leaflet Ex. A56 published on 15th February 1955 by the partisans of the petitioner to the effect that Sri Prakasam Pantulu had asked one Boddapati Pichayya Sastri to support the candidature of the petitioner probablise the truth of this allegation. With a view to ascertain from Sri Prakasam himself whether he was espousing the cause of the petitioner, the signatories under Ex. A55 might have contacted him at Bezvada. The falsity of the further averment that Sri Prakasam told these signatories that, as the petitioner had betrayed not only him but also the country, he is not entitled to any support is not proved.

131. Next, it has to be seen whether these statements are in relation to the personal character or conduct of the candidate as distinguished from his public conduct in connection with his political or other activities or in relation to his candidature. Reading both these pamphlets as a whole, we are unable to see that there is any imputation made in them attacking the personal character or conduct of the candidate. According to the petitioner's evidence itself, he was following the lead of Sri Prakasam in opposing the Ministerial Group in

the Congress Party. He even came out of the Congress Party following the foot steps of his master. The cleavage came on the eve of the formation of the Andhra Province, when the petitioner remained in the Praja Socialist Party while his master became the Chief Minister of the newly constituted Cabinet and subsequently joined the Congress. It is also admitted that the petitioner ranged himself with the Opposition Party in bringing down the Cabinet headed by Sri Prakasam. It is in this context that Sri Prakasam might have declared that the petitioner not only betrayed him but also the country. This only refers to the public conduct of the petitioner in connection with his political career and not to his personal character or conduct. Sri Prakasam Pantulu, who was then contesting the election in another constituency as a Congress nominee can by no means be said to have gone out of his way in criticising the public conduct of the petitioner, who contributed to the fall of the then Congress Ministry, thus necessitating the holding of a fresh election. In this context, the expression "*desamunaku drohamu cheynta*" cannot be interpreted to mean, acting as a traitor to one's own country. If the expression "*deshadrohi*" is used to connote an act of treachery to one's own country by means of sabotage or espionage, then that expression can be held to relate to the personal character or conduct of the person who is so stigmatised. But, in this case, what was meant by Sri Prakasam was that the petitioner by bringing about the fall of the Congress Government and necessitating the holding of fresh elections, betrayed the cause of the State. Thus, the imputation contained in both these leaflets is only in relation to the public conduct of the petitioner in connection with his political activities and not in relation to his personal conduct.

132. The statement in Ex. A54 that in the election of 1937 the petitioner, who opposed the Congress candidate, was defeated is a statement of fact which is true. The reference in this leaflet to the calculations of the petitioner with regard to the relative strength of the Communist Party and the Congress Party and his hope that the Praja Socialist Party may be called upon to form a Ministry and to the likelihood of his heading such Ministry can by no means be held to be a statement of fact. A conditional statement relating to the future conduct of a candidate in the event of his being returned is merely a statement of opinion and cannot by any process of reasoning be called a statement of fact.

133. Lastly, it has to be seen whether these statements are such as are reasonably calculated to prejudice the prospects of the candidate's election. It is the case of the petitioner that on account of the publication of these leaflets most of the voters belonging to the Brahmin community abstained from voting. But the only Brahmin witness examined in this connection, P.W. 23, would say that the leaflet Ex. A55 had had no effect on him and that he actually registered his vote, though he added that this leaflet had created a split amongst the voters. This witness is admittedly the author of the counter-leaflet Ex. A56, which was issued as a reply to Ex. A55, and it is from him we learn that Sri Prakasam Pantulu had asked one Pichayya Sastri to support the candidate of the Praja Socialist Party in the election. Presumably, therefore the Praja Socialist Party might have been using the name of Sri Prakasam while canvassing support for the petitioner. There is thus absolutely no evidence that any voter belonging to the Brahmin community abstained from recording his vote in the election. Admittedly, this community predominates in the two localities in Guntur City known as Brodiepeta and Arundelpet, i.e., the 5th and 6th localities as per Ex. A12, and are covered by items 15 to 20 and 21 to 26. Ex. A19, the account of ballot papers as per Rule 46 in Form No. 14, discloses that in Brodiepet the petitioner secured as many as 982 votes, whereas the 1st respondent secured only 297 votes, the 2nd respondent 358 votes, the

3rd respondent 26 votes and the 4th respondent 5 votes. Again in Arundelpet, the following are the number of votes secured by each of the candidates:

Petitioner	..	1032
1st respondent	..	723
2nd respondent	..	402
3rd respondent.	..	58
4th respondent.	..	5

In this area, polling booths Nos. 21 and 22 cover the locality in which most of the residents are Brahmins. In polling booth No. 21 the petitioner got 236 votes, 1st respondent 67 votes, 2nd respondent 60 votes and the 3rd respondent 2 votes. Again in booth No. 22, the petitioner got as many as 258 votes, while the 1st respondent secured only 66 votes, 2nd respondent 13 votes, 3rd respondent 3 votes and 4th respondent 4 votes. It would thus be seen that the petitioner got the largest number of votes in these localities, far out of proportion with the few votes that the 1st respondent got. It can, therefore, by no means be said that the publication of these impugned leaflets had any effect prejudicial to the interests of the petitioner.

134. We have already adverted to Ex. A50 in another connection. This is a leaflet published by the Congress Central Committee and it is directed mainly against the Communist Party, which had in the previous election of 1952 defeated the Congress Party in several constituencies in the Andhra Pradesh. The main object of the formation of the United Congress Front is to defeat the Communist Party in the elections of 1955 and to establish a stable Government. Emphasis is, therefore, laid in this leaflet to the policy of the Congress Party based upon love and non-violence as contrasted with the policy of hatred and violence, which, according to the Congress Party, the Communist Party is advocating. Not a whisper is made in this pamphlet either to the Praja Socialist Party or to the petitioner. We fail to see what grievance the petitioner has against this pamphlet.

135. It is, no doubt, true that issuing of any circular, placard or poster having a reference to the election, which does not bear on its face the name and address of the printer and publisher thereof is held under sub-sec. (3) of s. 125 of the Act to be an illegal practice. Ex. A54 does not bear on its face the name and address of the printer and publisher. This leaflet was issued not by the 1st respondent nor any of his recognised agents but by the Town Congress Committee. According to the law of electoral agency the 1st respondent cannot, no doubt, disown his responsibility for the statements made in this pamphlet. But he cannot be held responsible for the omission of the name of the printer and publisher in this pamphlet, as he did not himself issue it. It would be unduly stretching the law of agency in this respect if the 1st respondent should be held responsible for this omission, especially when the provision relates only to the "issuing" of the leaflets. This omission is of no importance unless it is proved that the result of the election has been materially affected by such omission. The fact that a contradiction was issued to this leaflet will go to prove that the statement contained therein was not considered to be of any importance. Nor can it be held that the statement was reasonably calculated to affect the prospects of the petitioner's election, or in other words, that such an effect would in fact be produced on the average voter in the constituency who considered the matter in a reasonable manner. In the "Law of Elections in India" by Narakchand it is observed at page 367 "when the omission of the name of the printer or publisher has not affected



the result of the election so as to bring it within s. 100 (2) (a) of the Act, of 1951 the election cannot be declared void on that account".

136. To sum up, we find under this issue that the allegations made in the impugned pamphlets do not relate to the personal character or conduct of the petitioner but that they relate to his public conduct in relation to his political activities, that the petitioner has not proved the falsity of those statements and that they are not reasonably calculated to prejudice the election of the petitioner.

137. *Issue 14.*—As is evidenced by Ex. A19, the 1st respondent was declared by the Returning Officer to have been duly elected on 1st March 1955. The 1st respondent had time till 21st April 1955 to file his return of election expenses before the Returning Officer. According to the case of the 1st respondent, he lodged with the Returning Officer his return in Form No. 26 (Ex. A15) on 19th April 1955 itself together with 114 vouchers mentioned therein, though under Rule 112 of the rules he had 45 days from the date of the publication under section 67 of the result of the election. This is borne out by the endorsement made by the Returning Officer in Ex. A15. A memo Ex. B38 filed by the 1st respondent before the Returning Officer on 20th April 1955 shows that Ex. A15 was lodged with the Returning Officer on 19th April 1955 together with vouchers but that the vouchers were returned to him as being unnecessary and that again on 20th April 1955 he re-presented the vouchers to the Returning Officer. This memo bears the initials of the Returning Officer under the date 21st April 1955 and as per the Gazette Notification Ex. B 39 it was averred by the Returning Officer that the return was lodged with him on 21st April 1955. There is, therefore, no substance in this contention of the petitioner and we hold that there was no delay on the part of the 1st respondent in filing his return of election expenses.

138. *Issues 12 and 13:*—These two issues which relate to the financial aspect of the election campaign carried on by the 1st respondent and to expenses incurred by him are the most important issues over which a battle royal was fought between the parties. Sri P. S. Sayi, the learned counsel for the petitioner, in the course of his elaborate arguments, stated that the contentions raised in these issues constitute the main prop of the petitioner's case that there has not been a free and fair election and consequently he laid the strongest emphasis on these two issues. In para 6 of the petition it is averred that the return of election expenses lodged by the 1st respondent is false in material particulars. Those particulars are set out in Part VI of the list of particulars. It is alleged therein that the 1st respondent was reluctant to stand as a candidate to contest the elections as he was then heavily involved in debts and as even execution proceedings had been taken against him for huge amounts. But Sri Sudarsanam and others assured him that they would get necessary financial assistance by collecting subscriptions from the public. At Guntur there are a number of firms dealing in export of tobacco to foreign countries. As the Western countries like the United Kingdom had closed their market against them, there was an unexpected fall in the tobacco trade in the local market. In response to the agitation started by the leading exporters of this constituency, the Central Government deputed a delegation to negotiate with China and other Eastern countries for the export of tobacco. Sri Kotha Raghuramayya, a Member of the Parliament, was also a member of the said Delegation. He was instrumental in securing orders from China and distributing the same among the local tobacco exporters. These tobacco exporters, who were thus benefited, made generous contribution at the instance of Sri Raghuramiah. These contributions were collected by Sri Ch. Hanumiah, the President of the Town Congress Committee, Chairman Venkatarao, Sudarsanam and the 1st respondent, and the contributions thus made by the tobacco

merchants amounted to more than Rs. 20,000. The following are the amounts collected from some of the merchants, *viz.*,

	Rs.	
1. A. S. Krishna. . . . .	1,000/-	
2. D. Ramarao & Co. . . . .	10/-	
3. Golden Tobacco Co. . . . .	20/-	
4. Commercial Tobacco. . . . .	10/-	
5. M. V. S. Rao. . . . .	10/-	
6. Narahari & Chowdari. . . . .	20/-	
7. National Indian Tobacco Co. . . . .	1,000/-	(by cheque).
8. Burugu Visvanadham Bros. . . . .	1,500/-	
9. Vupputuri Narasimham & Sons. . . . .	1,000/-	
10. T. S. P. Pallai. . . . .	500/-	
11. Guntur Tobacco. . . . .	500/-	
12. Majeti and Eka. . . . .	3,000/-	
13. Agarwalla & Co. . . . .	2,000/-	
14. Motilal Ha i Prashad Oil Factory . . . . .	3,000/-	
15. Cummayuri Venkateswarlu. . . . .	1,000/-	
16. Maddi Sudarsanam. . . . .	1,000/-	
17. I. L. T. D. Co. Guntur . . . . .	1,000/-	(by cheque).
18. B. I. T. Co. . . . .	1,000/-	(by cheque).
<b>TOTAL</b>	<b>17,570/-</b>	

139. As recently as on 20th September 1957 the petitioner filed I. A. No. 49 of 1957 purporting to be under Order VI Rule 17, C. P. Code and section 151, C. P. Code for permission to amend this list of contributions by substituting Rs. 1000/- for the amount of Rs. 10/- and Rs. 1500/- for the amount of Rs. 15/-. Be it noted that there is no sum of Rs. 15/- mentioned against any of these items. As against items 2, 3, 4, 5 and 6 we have the sums respectively Rs. 10, Rs. 20, Rs. 10, Rs. 10, and Rs. 20. There is no prayer for the amendment of these two sums of Rs. 20/- mentioned against items 3 and 6. They are, therefore, to remain as they are. The only amendment that is now sought for and is to be considered is the substitution of Rs. 1,000/- for Rs. 10/- in items 2, 4 and 5. The petitioner contends that these errors have crept in by the inadvertence of the typist and that he came to know of these errors when they were brought to the notice of the Tribunal by the learned counsel for the 1st respondent in the course of his arguments. But no explanation whatsoever is given why no amendment was sought for even at that stage. Nor is any explanation given for items 3 and 6, regarding which no amendment has been sought at all. As has already been observed, there is no mention of Rs. 15/- in any of these items. This only shows that the figures given are wholly imaginary. Whatever that be, as the sum total of the collections by way of public subscription is shown to be Rs. 20,000/-, Rs. 10/- in each of these items could not have been the figures which were then in the mind of the petitioner. Whether these firms made any contribution or not is a point which has yet to be considered. Despite the balatedness of the filing of this amendment petition, we are prone to allow the amendment as prayed for, as, having regard to the sum total of the contributions, Rs. 10/- in each of these items does not appear to be a correct sum. As a result of the amendment of these three items, the sum total would come to Rs. 20,540/-.

140. Another wild allegation is made in Part VI of the list of particulars to the following effect:—It is also everybody's secret that large amounts were brought by Messrs. Patil and Dhebar, etc., and distributed amongst the Con-

gress candidates. The amounts then realised including the amounts collected from the factory proprietors and other individuals exceed Rs. 50,000/-. Most of the amount was spent in; procuring votes. The 1st respondent purchased more than 6000 flags and gave to each person who raised the flag on his building or shop at the rate of Re. 1/-. The amount thus expended for this purpose exceeds the maximum limit of expenditure, though the 1st respondent has shown but a sum of Rs. 100/- against that item of expenditure. The 1st respondent has intentionally kept blank the "receipts" column of the return with a view to withhold evidence, which would go to show that he was, at the time of the election, holding huge amounts which remained unaccounted and which exceed by far the maximum expenditure which could be incurred for the purpose of the election.

141. While countering these allegations, the 1st respondent stoutly denies that he was heavily involved in debts on the eve of the elections. In 1951 he had domestic dissensions with his nephew and partner Sri Sambasivarao, whom the petitioner has weaned away for his factious purposes, resulting in some litigation. He had nothing to do with any collection said to have been made by Shri Raghuramiah or anyone. It is false to allege that he collected those amounts or that any amount so collected by him was given to him or distributed in his constituency. He denies all knowledge of the bewildering averments that Sri Patil and Sri Dhebar brought any amounts or distributed any amounts in his constituency. The attack on the correctness of the return of election expenses is baseless. He did not receive any money from any source. As such, there is nothing to be shown under the "receipts" column. He spent his own money for the election.

142. In Ex. A15, the return of election expenses in Form No. 26 lodged by the 1st respondent with the Returning Officer, the "receipts" column is kept blank as, according to the contention of the 1st respondent, he spent his own money for his election expenses and did not receive any funds from any other source. In Part L of this Form, various items of expenses under each of Parts A to I and K are set out, and the total of these items is shown in the last column as Rs. 6630 6-6, of which a sum of Rs. 1669-9 0 is shown as still outstanding. It is now for the petitioner to prove:

- (1) that the 1st respondent exceeded the maximum limit in his expenditure, and
- (2) that he received by way of public subscription and also from the contribution said to have been made to him by the Congress leaders from Northern India to the tune of Rs. 50,000/- and that he deliberately suppressed these receipts and their source with a view to withhold evidence which would tend to show the extensive commission of corrupt practices.

143. The evidence of the petitioner with regard to this aspect of his case may be summed up as follows:—A few months prior to the election, there was a slump in the export of tobacco. The tobacco merchants submitted a memorandum to the Chief Minister to point out a way for the disposal of the accumulated stocks. A Trade Delegation, of which Sri Raghuramiah was the leader, was sent to China. Sri Raghuramiah procured orders from China for export of tobacco and he distributed those orders among the tobacco merchants at Guntur, as he was one of the members of the Committee appointed for distribution. On account of this, the tobacco merchants were under an obligation to him. Sri Raghuramiah was then not only a member of the Andhra Provincial Congress Committee but also the Vice-President of the Central Tobacco Committee and the Secretary of the Congress Parliamentary Party. Sri Raghuramiah, Sri Sudarsanam and Sri Hanumiah approached the tobacco

companies and collected subscriptions from them and they gave a sum of Rs. 40,000/- to the 1st respondent for meeting his election expenses. He has no personal knowledge of the raising of this subscription or the payment of any money to the 1st respondent. But he states:

“When I approached those merchants they told me that they had made contributions to the Congress candidate.”

In the course of his cross-examination, he admitted that he was not present when Messrs. Sudarsanam, Hanumayya and others promised financial support to the 1st respondent. He also admitted that he himself executed a promissory note in favour of the 1st respondent for a sum of Rs. 400/- and that it was discharged a month prior to the date of his giving evidence. He further states that the All-India Congress Committee took charge of the election campaign with a view to countermand the campaign of the Communist Party, which was then very powerful. This campaign was directed by Messrs. S. K. Patil and Dhebar, who have come to Bezwada, and they are alleged to have visited Guntur and held election meetings. The petitioner vaguely states that they had brought large amounts of money and distributed them to Congress candidates.

144. Sri Eka Anjaneyulu (P.W. 3), is the partner of the firm of Majeti & Eka Co., which, according to item 12 of the list of contributions, paid a sum of Rs. 3000/- by way of subscription to finance the election campaign of the 1st respondent. This firm deals in tobacco and it is the oldest firm at Guntur. This witness speaks to the success of the Trade Delegation sponsored by the Central Government and sent to China with a view to liquidate the old stock of tobacco that had accumulated at Guntur, and he says that Sri Kotha Raghuramiah (P.W. 25) was the leader of this Delegation, and that his mission proved successful as it helped the local tobacco merchants in clearing their stocks and in having continuation of trade with China. Though this witness is not a member of the Congress Party, he and some other tobacco merchants of Guntur collected funds to aid the Congress campaign in the last elections. He met P.W. 5 and told him that they were collecting some funds for the Congress and sought his instructions as to whom the collections had to be handed over. This was in the early part of February 1955. P.W. 25 was then the Secretary of the Parliamentary Legislature Party. He advised this witness to send the collections to the Andhra Provincial Congress Committee, Bezwada, through a person known to him. This witness was unable to recall the name of that person. But according to his impression that person belongs to the Guntur District. The firm of Majeti & Eka contributed not Rs. 3000/- as is alleged in the list of particulars but only Rs. 1000/- and in proof thereof he filed into court his cash book for 1955 (Ex. A94), and the entry therein Ex. A91(a) evidences this contribution made on 9th February 1955. This witness would further add that some tobacco merchants of Guntur sent him subscriptions totalling about Rs. 7000/- to Rs. 8000/- and that he delivered the entire amount in cash to the person that had been deputed by P.W. 25. That person was taking down from him the names of the contributors and the sums contributed. These contributions were meant to reach the Office of the Andhra Provincial Congress Committee at Bezwada. He and the other tobacco merchants contributed funds for the success of the Congress as a whole in the Andhra State. They did not earmark the collections.

145. The evidence of this witness belies the petitioner's case that either the 1st respondent or any of his agents collected any subscriptions from any of the tobacco merchants at Guntur. On the other hand, it shows that some of the tobacco merchants of Guntur voluntarily raised subscriptions among themselves to the tune of Rs. 7000/- to Rs. 8000/- and sent that amount to

the Andhra Provincial Congress Committee to be spent for the Congress election campaign as a whole in the entire State of Andhra. The firm of which this witness is a partner, contributed but Rs. 1000/- and not Rs. 3000/-, and that contribution was not meant for the 1st respondent's election campaign.

146. Next we have the evidence of Varanasi Venkata Narasimhamurty (P.W. 4), who claimed himself to be an exporter and importer, having dealings with such foreign countries as America, Ceylon, Rangoon, Indoncsia and Hongkong. Prior to the elections of 1955, he is alleged to have gone to Vijayawada to ascertain the market value of green-gram. While he was returning from Vijayawada, he happened to contact P.W. 25, who was also coming to Guntur. At first this witness stated that he and P.W. 25 travelled in the train from Vijayawada to Guntur. In the next breath he corrected himself by saying that they travelled in a car, which was used by P.W. 25. Though he is a resident of Guntur, he says that he was put up in the Municipal Travellers Bungalow at Guntur along with P.W. 25. He does not say, however, what necessitated him to stay at the Travellers Bungalow. He proceeds to say:

"It was about 3 P.M. 1st respondent, Chebrolu Hanumiah and M. Sudarsanam came to the T.B. and met Sri Raghuramiah. The latter two requested Sri Raghuramiah to give financial aid as 1st respondent was proposed to be set up as a candidate for the elections. On the next day a meeting of the Tobacco Merchants was convened. Some merchants offered to send their donations to Eka Anjaneyulu (P.W. 3) and others through Maddi Sudarsanam. Sri Raghuramiah deputed me to collect the donations from P.W. 3 and give them to 1st respondent. He asked Eka Anjaneyulu to hand over his collections to me. On 9th February 1955 1st respondent asked me to bring the promised money from P.W. 3. Accordingly I contacted Eka Anjaneyulu. He paid me Rs. 1000/- as the contribution of the firm Majeti and Eka & Co. I paid that amount together with the slip to the 1st respondent."

Further on, in the course of his deposition, this witness would swear that he contacted P.W. 3 on 10th, 11th, 12th, 13th and 14th and collected from him:

- |    |            |   |
|----|------------|---|
| 1. | Rs. 1000/- | being the contribution by A.S. Krishna.           |
| 2. | 1000/-     | Desiraju Ramarao.                                 |
| 3. | 1000/-     | Narahari Chowdari.                                |
| 4. | 1000/-     | Upputuri Punnarao.                                |
| 5. | 2000/-     | Agarwalla Trading Tobacco Co.                     |
| 6. | 2000/-     | Karpurapu Ramakrishnamurty<br>and Pothuri Ramiah. |

This witness would say that he paid all these moneys to the 1st respondent. As he was directed by P.W. 3 to take a receipt from the 1st respondent for all these sums, he prepared a receipt in duplicate and he is alleged to have handed over to P.W. 3 the receipt bearing the signature of the 1st respondent and retained the duplicate receipt with him. When he asked the 1st respondent to put his signature to this duplicate receipt also, the 1st respondent is alleged to have told him that it was not necessary. The said unsigned duplicate receipt was produced by this witness and is marked as Ex. A95. He was asked by P.W. 3 to get a receipt for the consolidated amount from the Office of the Andhra Provincial Congress Committee, Bezwada, and in his turn this.

witness is alleged to have asked the 1st respondent to get a receipt from the said Congress Committee, and the 1st respondent is alleged to have assured him that he would get it in due course. This witness would assert that these amounts were meant for the benefit of the 1st respondent.

147. The so-called duplicate receipt is engrossed on a letter paper bearing the name of the 1st respondent, who is a merchant and a mill owner of Guntur. It is styled as a copy (*Nakalu*) and the following items are shown in it:—

Date	Subscription	Name of subscriber
1. 9-2-1955.	Rs.1000/-	Majeti Eka.
2. 10-2-1955.	1000/-	A.S. Krishna.
3. 11-2-1955.	1000/-	Desiraju Ramarao.
4. 12-2-1955.	1000/-	Narahari Chowdari.
5. 13-2-1955.	1000/-	Upputuri Punnarao.
6. 14-2-1955.	2000/-	Agarwalla Trading Tobacco Co
7. 15-2-1955.	2000/-	Karpurapu Ramakrishnamurthy
	Total.	9000/-

Ex. A95 does not bear the signature of anybody, though we find the word "Signed" below these items. Comparing this list with the list of particulars furnished by the petitioner in Part VI, it would be seen that out of the 18 items of collections mentioned in the petition, only 6 items are accounted for in Ex. A95, and the last item in Ex. A95 bearing the date 15th February 1955 is not to be found in the list furnished in the petition. According to item 6 of the list in the petition, Narahari Chowdari is alleged to have contributed but Rs. 20/ whereas according to the 4th item in Ex. A95 a sum of Rs. 1000/- is shown against this Narahari Chowdari. We have already referred to the discrepancy between the sum alleged to have been contributed by Majeti & Eka according to the petition and the sum contributed by this firm according to the evidence of P.W. 3 to the Andhra Provincial Congress Committee. The total collection according to the petition by means of public subscription is Rs. 20,000/-, whereas according to this list it is only Rs. 9000/-. To make up for this deficit this witness is made to say that some of the merchants had offered to send their donation through Maddi Sudarsanam and that it was only the collections made by P.W. 3 that this witness gathered on the respective dates and made them over to the 1st respondent.

148. The assertions made by this witness in the course of his chief-examination have not withstood the test of cross-examination, which has exposed him in his true colours. With a view to impress on this Tribunal that he is an important person at Guntur, carrying on trade with foreign countries, this witness styled himself as an "Exporter and an Importer", having business dealings with several foreign countries. But the following admission made in the course of his cross-examination would reveal that he has no business, much less foreign business. He states:

"It is since 1954 that I have been doing import and export business. In 1954 I paid Rs. 6/- as sales tax. I was not assessed to sales tax in 1955-56. I do not pay income-tax. I do trade in pulses, chillies and coriander. My business in pulses is still in the stage of correspondence. During these three years I purchased about 108 bags of coriander and exported them in one consignment. But as I sustained loss I stopped that business. Since then I have not been doing any business. Panpalli Narasimharao

took on rent a shop premises and rented it out to me in his turn. I do not know to whom that premises belongs. Rent payable is Rs. 22/- P.M. But I did not pay any rent as the said Narasimharao is my partner."

Comment is needless. These admissions would show that the claim made by this witness that he has foreign trade is a tall one. He denied the suggestion that he would be going from shop to shop collecting Re. 1/- or Rs. 2/- by way of charity. He also denied that he ever approached the 1st respondent for providing him with means of livelihood, undertaking to write letters for him. He, however, admitted having written 2 or 3 letters for the 1st respondent. But he denied that he was discharged from service by the 1st respondent on account of neglect of duty.

149. It was further suggested to him that he had in his custody some letter-head sheets of the 1st respondent and that on one such letter-head he engrossed Ex. A95, which he claims to be a true copy of the receipt passed by the 1st respondent in favour of Eka Anjaneyulu. But no mention whatsoever is made in Ex. A95 either to P.W. 3, the person to whom the receipt is alleged to have been addressed, or to the 1st respondent as the payee of the amounts mentioned therein. Nor does Ex. A95 bear any date, though it is claimed to be a true copy of the original receipt executed by the 1st respondent in favour of P.W. 3. This witness had the cheek to tell the Tribunal that he had not contacted the petitioner at any time till he attended this proceeding, and that he did not talk with him even that day, but that he straightway entered into the witness box. He had never told the petitioner about Ex. A95. Though he had not received any summons, he came to know of this proceeding and came to Court on his own accord bringing along with him Ex. A95. He never attended this enquiry during the Tribunal's previous sittings. He does not even know what this enquiry relates to. Yet we are asked to believe that he attended the enquiry bringing along with him Ex. A95 not knowing the subject matter of the enquiry and what evidence the Tribunal expected him to give.

150. He is not a member of the Congress Party, nor has he any manner of connection with that Party. As such, the question would arise as to how he happened to come in contact with P.W. 25, who is a native of Sangam Jagarlamudi in the Tenali Taluk. When pointedly asked about his alleged acquaintance with P.W. 25, this witness stated that once he happened to go to Jagarlamudi casually and thus became acquainted with P.W. 25. But no letters of correspondence passed between him and P.W. 25 at any time, though he claimed to have worked for P.W. 25 in the Parliamentary elections in 1952. Admittedly, P.W. 3 does not know him. As such, it is incredible that he would have entrusted him with such large sums of money day after day without even taking his signature anywhere in token of the payments made to him.

151. When asked why he took the so-called duplicate receipt Ex. A95, he states that he wanted it with a view to show it to P.W. 25. If that were so, he would have insisted upon the 1st respondent putting his signature on Ex. A95 also and would not have kept quiet when the latter is alleged to have told him that his signature was not necessary. As has already been observed *supra*, this witness at first stated that on that day he returned from Bezvada to Guntur by train. But seeing that that journey would not establish the intimate contact with P.W. 25 that he claims, he had perforce to change his version and blurted out that he came to Guntur in the car of P.W. 25. He is not a Congress worker nor is it alleged that he has any manner of connection with P.W. 25. As such, we wonder how P.W. 25 would have given him the

lift in his car. He does not know to whom that car belonged or who the driver was. It is still more curious that this witness instead of going about his own business at Guntur should have chosen to stay in the Municipal Travellers Bungalow, and attended the conference alleged to have been held there. P.W. 3's factory is only about two furlongs from the place of business of the 1st respondent. As such it was not difficult for P.W. 3 to have personally handed over the collections made by him, if really they were made for the benefit of the 1st respondent. But, we are told that P.W. 3 had himself asked this witness to go over to him every day for collecting the subscription. On all these crucial occasions when P.W. 3 is said to have made payments to this witness and this witness in his turn handed over them to the 1st respondent none else is said to have been present. Ex. A95 and the original receipt are stated to have been written by this witness in the shop of the 1st respondent. If that were so, one would naturally expect some corroboration for his evidence, and as P.W. 4 would not have failed to take attestations for such an important document covering such a huge amount like Rs. 9000/. It is not even known if the original was a stamped receipt. This witness did not apprise the Andhra Provincial Congress Committee of these collections.

152 The 1st respondent stoutly denies in his evidence having ever approached either P.W. 25 or anybody to help him financially in this election. He did not meet P.W. 25 in the Municipal Travellers Bungalow at Guntur. Neither P.W. 25 nor anybody gave him money. P.W. 3 did not send him any money through P.W. 4, nor did he execute any receipt and send it through P.W. 4 to P.W. 3. P.W. 4 did not prepare Ex. A95 in his presence and it is not true that he refused to sign it. The 1st respondent is the proprietor of a firm doing commission business under the name and style of Tellakula Jalayya. It is a partnership firm. The letter-head on which Ex. A95 is engrossed is of that firm. The 1st respondent would say that P.W. 4 had been employed by him for sometime to write letters in Tamil and P.W. 4 was writing letters on the letter-heads of the firm. But as the conduct of P.W. 4 was not good, he dispensed with his service in 1954. P.W. 4 worked for the petitioner in the elections of 1955. No cross-examination was directed against this part of his evidence and it remains absolutely unchallenged.

153. The petitioner who examined Sri Kotha Raghuramiah (P.W. 25) as a witness on commission at New Delhi, did not ask him about his visit to Guntur on 9th February 1955 or about any citizens of Guntur approaching him and telling him that they were collecting subscriptions for the benefit of the 1st respondent in the election. He was not even asked about his acquaintance with P.W. 1. The question put to him was:

"Some funds were collected by the Congress. Is it not true?" and his answer thereto was,

"So far as I am aware some funds were donated to the Congress organisation. The said funds were intended for use by the Congress organisation for election purposes. Some candidates were helped with funds by the Organisation."

The next question that was put to him was,

"Is it not true that some funds were collected in Guntur also for election purposes?"

and to this question P.W. 25 answered:

"I already said I was aware of only donations for election expenses. I am not aware of any collections as distinguished from voluntary donations. Voluntary donations, I remember were received from



some people in Guntur for that purpose. There were many firms, tobacco firms, in Guntur. I remember some donations were received from some firms and others also. Some monies were given to some of the Congress candidates in Guntur district out of such donations. I cannot remember the names of the candidates to whom monies were given out of those donations because it was so long past."

Next he was asked:

"Are you not a member of the Committee that distributed funds among candidates?"

and the answer of the witness was:

"I remember to have been consulted regarding this matter of distribution but I do not remember there was any formal committee as such. I cannot remember at this distance of time the names of firms or individuals who made the donations."

Thus, P.W. 25 made no reference whatsoever to his alleged acquaintance with P.W. 4. But when specifically questioned about P.W. 4 in the course of his cross-examination, this witness stated:

"I do not remember that any person by name Varanasi Venkata Narasimhamurthy of Guntur worked for me in my Parliamentary election of 1952 in Tenali. If I had known him for 7 years I should certainly have remembered him. I know Sri Eka Anjaneyulu (P.W. 3), a tobacco merchant of Guntur. It is not true to say that I deputed the said Venkata Narasimhamurthy to meet Sri Eka Anjaneyulu and to collect monies from Sri Eka Anjaneyulu and to give them to Sri Jalayya (1st respondent)".

154. Thus, the evidence of P.W. 25 gives the lie direct to the testimony of P.W. 4. P.W. 4 is the most important witness for the petitioner, as it is his testimony that connects the 1st respondent with the collections of subscriptions said to have been made for the Congress organization, and he even goes the length of swearing that collections to the tune of Rs. 9000 did go into the hands of the 1st respondent and that this fact is evidenced by a receipt said to have been executed by the 1st respondent. But, curiously enough, the petitioner himself does not make a whisper to this witness in his evidence. Obviously this witness was not in the mind of the petitioner at all on the date of his examination. That is why P.W. 4 was made to say that at no time did he contact either the petitioner or his counsel. It is not the case of the petitioner as averred in the petition or as spoken to by him in his evidence that the subscriptions were collected by P.W. 3 and were sent by him to the 1st respondent through P.W. 4 instructed by P.W. 25. P.W. 3 was examined on 12th April 1957 and it is his definite case that he and some other tobacco merchants collected funds not for the purpose of financing the 1st respondent, but to aid the Congress organization in its election campaign throughout the Andhra State. He sought instructions from P.W. 25 as to whom the collections had to be remitted as P.W. 25 then happened to be the Secretary of the Parliamentary Legislature Party. P.W. 25 advised him to remit the collections to the Andhra Provincial Congress Committee, Bezwada, through a person known to him. P.W. 3 was not able to recall to memory the name of that person, though he stated that that person belonged to the Guntur district. He delivered the entire amount to the tune of Rs. 7000 to Rs. 8000 to that

nominee of P.W. 25, who was coming off and on to Guntur for making the collections and he believed that the said funds reached the Andhra Provincial Congress Committee's Office at Bezwada.

155. P.W. 4 was examined on 22nd July 1957, i.e., more than three months after the examination of P.W. 3. Taking advantage of this interval he sought to spring a surprise both upon the Tribunal as well as on the 1st respondent by posing himself to be a very important person, being an exporter and an importer and also a confident of P.W. 25. Advantage was also taken of the fact that P.W. 3 was unable to recall to memory the name of the nominee of P.W. 25 and this witness now claims himself to be the said nominee, though according to P.W. 3 that nominee was visiting Guntur off and on to make the collections and must therefore be a different person from P.W. 4, who is himself a native of Guntur.

156. The evidence of P.W. 4 has all the Lall-marks of a recently concocted one and is surcharged with inherent improbabilities. It is highly improbable that he had had any manner of acquaintance with P.W. 25 to justify the inference that P.W. 25 not only gave him a lift in the car but also permitted him to participate in the alleged conference held in the Travellers Bungalow and even appointed him as his representative to make the collections of such huge sums. According to the evidence of P.W. 3, those collections were meant to be remitted to the Provincial Congress Committee at Bezwada, but this witness would say that he was going to P.W. 3 every day from 9th February 1955 till 14th February 1955 and was taking the collections from him and was handing them over to the 1st respondent.

157. Ex. A95 also has the tell tale appearance of having been fabricated just a short time before this witness went into the witness box. The letter-head on which it is engrossed, no doubt, appears to be old, but the writing in pencil thereon appears to be quite recent. The pencil pressure thereon is rather unusually heavy. We have no hesitation in holding that this is a spurious document having been got up on the spur of the moment. This witness admittedly worked as a *gumastha* of the firm of Mcheranichand Nemichand from 1948 till March 1953. He denied the suggestion that he was dismissed from service and has asserted that he himself gave up that service. Being a merchant's *gumastha* during that period, it is improbable that he should have cultivated the acquaintance of P.W. 25 or that he worked for P.W. 25 in the Parliamentary Elections of 1952. To our minds P.W. 4 does not appear to have any regard for truth and we have no hesitation in brushing aside his evidence as having been got up for the occasion. Instead of furthering the case of the petitioner, his solitary and uncorroborated testimony has done great damage to it.

158. Another witness Vadduri Venkatappayya (P.W. 5) who was put into the witness box probably to speak to the collections made by P.W. 3 and such other matters stated in his evidence that he is not on visiting terms with Eka people on account of misunderstandings.

159. We have already adverted to the discrepancy between the list of contributions as given in the petition and that contained in Ex. A95. There is absolutely no proof in respect of the other items set out in the list of particulars, except with regard to item 7, according to which the National Indian Tobacco Co., Guntur, made a contribution of Rs. 1000 by means of a cheque, and item 9, which recites that the firm of Vupputuri Narasimham & Sons made a contribution of Rs. 1000. The last item in Ex. A95, according to which Karpurapu Ramakrishnamurty paid a sum of Rs. 2000 on 15th February 1955 has no parallel reference in the list of particulars. But P.W. 4 would say in his evidence that he was paid this amount by P.W. 3 on 14th February

1955 itself as having been collected from Karpurapu Ramakrishnamurty. If really the collection was made on 15th February 1955, it is not known how P.W. 3 could have paid this amount to P.W. 4 on 14th February 1955 itself.

160. The petitioner summoned for the Day book of the firm of Karpurapu Ramiah and Karpurapu Ramakrishnamurty & Co., Guntur, from 1st January 1955 to 11th May 1955 and it was marked by consent as Ex. B13. This account book makes no reference whatsoever to any contribution made by the firm to any political organization. On 9th February 1955 we find a debit entry Ex. B13(a), which reads that Karpurapu Venkatappayya took from the funds of the firm a sum of Rs. 1000 for his household expenses. There is no evidence whatsoever to show that this firm contributed Rs. 2000 or any amount either to the 1st respondent or to any Congress organization. The insertion of this fictitious item in Ex. A95 goes a long way in discrediting the genuineness of that document and also in negating the evidence of P.W. 4.

161. From the list of particulars it is seen that the firm of Vupputuri Narasimham & Sons contributed Rs. 1000 for the election expenses of the 1st respondent. No date is given with regard to this contribution. But from item 5 of Ex. A95 we learn that one Vupputuri Punnarao paid a sum of Rs. 1000 on 13th February 1955. According to the evidence of P.W. 4, Upputuri Punnarao paid this amount in cash to P.W. 3 and P.W. 3 in his turn paid it to him on 13th February 1955. Despite this evidence, which relates to cash payment, the petitioner summoned for the account of the firm Vupputuri Narasimham & Sons from the Indian Bank Ltd., Guntur. Those statements of account, Exs. B8 and B12, would show that a cheque bearing No. 919 issued in favour of Sri B. Gopala Reddi, the then President of the Andhra Provincial Congress Committee for a sum of Rs. 1000 was cashed by him by transfer on 26th February 1955, i.e., 8 days after the election. Ex. B7 is the cheque bearing the date 9th February 1955 issued in favour of Sri B. Gopala Reddi in his capacity as the President of the Andhra Provincial Congress Committee on behalf of this firm. This cheque was produced into Court by R.W. 7, who is an assistant working in the Indian Bank Ltd., Guntur, and according to his evidence, Sri V. V. Punnayya drew that cheque for and on behalf of the firm of Vupputuri Narasimham & Sons of which he is a partner. The endorsement on Ex. B7 shows that this amount was transferred to the Andhra Bank Ltd., Bezwada to the credit of the Andhra Provincial Congress Committee, and that means that this contribution of Rs. 1000 was made to the Andhra Provincial Congress Committee and was received by it a week after the election, and no part of this sum ever went into the hands of the 1st respondent. Thus, these statements of account give the lie direct to the case for the petitioner.

162. Now remains for consideration the contribution said to have been made by the National Indian Tobacco Co., of Guntur. This contribution is referred to as item No. 7 in the list of particulars, according to which this firm contributed by means of a cheque a sum of Rs. 1000. The date of the contribution is not mentioned. Nor is it disclosed in whose favour this cheque was issued. Sri N. Jacob, Assistant, Mercantile National Tobacco Co., Ltd., was examined by the petitioner as P.W. 2 in this connection, and he states that his company issued a cheque for Rs. 2000 on the State Bank of India in favour of the President, Andhra Pradesh Congress Committee on 8th February 1955, and he produced into Court the counterfoil of that cheque Ex. A13(a), which shows that the original cheque bearing No. O.C. 88249 was a crossed one drawn in favour of the President, Andhra Pradesh Congress Committee for Rs. 2000, which was payable only to the payee. Reference is made to this cheque in the cash book of this firm maintained for 1955 (Ex. A84). At page 521 of Ex. A84 there is an entry dated 8th February 1955

evidencing payment of Rs. 2000 said to have been made by cheque No. O.C. 88249, dated 8th February 1955 and covered by Voucher No. 445. This entry runs as follows:—

“Contribution paid to the President, Andhra Pradesh Congress Committee, sanctioned by Mr. Brawn Elias.”

Mr. Elias is, according to the evidence of P.W. 2, one of the Directors of this firm. P.W. 2 would say that this original cheque was returned by the Congress Committee and it was probably destroyed. It was a crossed one and it was returned with a request that a fresh cheque may be issued in the name of Sri K. Raghuramiah. Accordingly a fresh cheque, Ex. A100, was drawn on the Imperial Bank of India in favour of P.W. 25 for Rs. 2000 on 1st March 1955. This cheque, which is payable to the bearer, bears the signature of P.W. 2. The counterfoil of this cheque, which bears the No. O.Z. 120/44433 was also produced into Court and was marked as Ex. A14 (a) and according to the recital therein, this cheque was issued in favour of P.W. 25 in cancellation of the cheque bearing No. O.C. 1-88249, dated 8th February 1955. P.W. 2 was not able to recollect who it was that received the first cheque on 8th February 1955. He does not even know who the President of the Andhra Pradesh Congress Committee then was. Nor does he know who approached the Company for contribution. He issued the cheque on a verbal order of the local Leaf Manager. He does not know who returned the cheque. This, according to the evidence of this witness read with the accounts of this firm and the counterfoil of the cheque Ex. A14 (a) and the cheque Ex. A100, it will be seen that this firm made a contribution to the Andhra Pradesh Congress Committee, Bezwada to the tune of Rs. 2000 by means of a crossed cheque but that that cheque was returned to this firm with a request that another cheque may be issued for the said amount in favour of P.W. 25 in cancellation of the earlier cheque. That means, during the relevant period ending 18th February 1955, when the elections in this constituency were held, no amount was paid by this firm to the Andhra Pradesh Congress Committee as contribution much less to the 1st respondent or to any of his agents.

163. The cheque Ex. A100 in favour of P.W. 25 in cancellation of the previous cheque, bears the date 1st March 1955, *i.e.*, long after P.W. 25 must, therefore, be held to have come by Rs. 2000 on 3rd March 1955 and that amount represents the contribution made to the Andhra Pradesh Congress Committee. *Prima facie*, therefore, there is nothing to show that the 1st respondent received any amount whatsoever from this firm. The amount paid by this firm on 1st March 1955 is traceable only to the Andhra Provincial Congress Committee and even the payment was long after the election. But the petitioner wants to spell out from these documents a curious and a fanciful story that the original cheque dated 8th February 1955 must have been handed over to the 1st respondent and he might have used it as a sort of a security and would have flaunted it to secure votes and that eventually he might have got it cancelled on 1st March 1955 and got a fresh cheque issued in the name of P.W. 25, who after cashing it, paid the said amount to the 1st respondent. But there is nothing on record to connect the 1st respondent with the issue either of the first cheque dated 8th February 1955 or of the second cheque Ex. A100 dated 1st March 1955. Voucher No. 445 referred to in the accounts was summoned for and it was produced by P.W. 26 and marked as Ex. A141. It bears the date 8th February 1955 and it recites that a sum of Rs. 2000 was paid to the President, Andhra Pradesh Congress Committee by cheque No. 88249. Under the endorsement “Received payment” we find an indecipherable signature and nobody knows who this signatory is. P.W. 26 who filed this voucher does not know anything about

this and other documents Exs. A142 and A143. Ex. A142 purports to be a receipt passed by one M. S. Narayanarao to the Manager, National Tobacco Co., Guntur, bearing the date 10th February 1955, and it reads thus:—

“Received with thanks cheque No. 8824 (probably a mistake for 88249) for Rs. 2000 towards contribution of (?) the Congress Committee.”

164. Presumably this M. S. Narayanarao must be a representative of the Andhra Pradesh Congress Committee's Office in whose favour the said cheque was issued. But the petitioner suspected that this M. S. Narayanarao is an agent of the 1st respondent. Consequently, after the close of the trial and the arguments in this proceeding, he filed I.A. No. 48 of 1957 on 20th September 1957 to reopen the case and to summon one Magham Satyanarayanarao, who, according to Ex. A69, is an agent of the 1st respondent and who, according to the petitioner's contention, designedly put his signature in Ex. A142 as M. S. Narayanarao.

165. The contention of the petitioner in this respect may be summed up as follows:—The original cheque is a crossed one. As the 1st respondent could not secure the endorsement of the President of the Andhra Provincial Congress Committee, he has resorted to this contrivance and succeeded in getting the cheque reissued as bearer cheque. It is obvious, therefore, that the original cheque and the cheque reissued were intended for the election expenses of the 1st respondent. The said M. S. Narayanarao is a broker of the Millers Association, of which the 1st respondent is the leader. That cheque never reached the Andhra Provincial Congress Committee, nor was it intended for the general elections. This petition was, however, not pressed as it was conceded that Magham Satyanarayanarao, the canvassing agent of the 1st respondent, is not the same person as M. S. Narayanarao, the signatory in Ex. A142. Presumably therefore this M. S. Narayanarao must be a representative of the Andhra Provincial Congress Committee, and we have the evidence of P.W. 2 to the effect that this cheque was returned with a request for the issue of another cheque in the name of P.W. 25 and that after cancellation it must have been destroyed. It is clear, therefore, that this sum of Rs. 2000 did not reach the Andhra Provincial Congress Committee's Office. It is also clear that the 1st respondent had had nothing to do with the issue of this cheque or with its subsequent cancellation. As Ex. A100 was issued in the name of P.W. 25 long after the election and was cashed on 3rd March 1955, it does not in any way further the case of the petitioner, as, even if it could be argued that this sum reached the 1st respondent, it does not constitute an item of receipt for which the 1st respondent can be held accountable, as the receipt was long after the event and he could not have spent this amount for any expenses connected with the elections, which were over long prior thereto.

166. On the obverse side of Ex. A100 we find the signature, which purports to be that of P.W. 25. The petitioner went the length of contending that this signature is a forged one and even put in an application (I.A. No. 36 of 1957) for sending this cheque for scrutiny by a Handwriting Expert. By another application (I.A. No. 35 of 1957) he called upon the 1st respondent to produce into court the letters of correspondence received by him from P.W. 25 containing the genuine signatures of P.W. 25 for purposes of comparison. But as the 1st respondent stated that he had no such letters of correspondence with him, that petition was dismissed. Eventually I.A. No. 36 of 1957 was also not pressed on the ground that the genuineness or otherwise of the signature of P.W. 25 in this cheque is not an issue in this case and consequently that petition was also dismissed. Despite all this, the petitioner still

wanted this Tribunal to compare the disputed signature with the admitted signatures contained in Exs. A137 to A139 and arrive at "just and reasonable inferences."

167. The 1st respondent is emphatic in his assertion that P.W. 25 did not pay him either Rs. 2000 covered by Ex. A100 or any amount. In the course of his cross-examination he admitted that one B. Radhakrishnamurty, whose signature we find below the signature of P.W. 25 on the obverse side of Ex. A100, cashed Ex. A100 on 3rd March 1955. This Radhakrishnamurty is a clerk working in the Company of Sreeramulu, who is the father-in-law of the 1st respondent's son, Tellakula Koteswararao (R.W. 11). According to the evidence of the 1st respondent in this respect, P.W. 25 visited his factory on 3rd March 1955. He was then in his house performing the obsequies of his mother who died on 28th February 1955. According to the information of the 1st respondent, P.W. 25 gave the cheque to his son to have it cashed and the amount sent to him, and Radhakrishnamurty cashed it and eventually paid the amount to P.W. 25.

168. R.W. 11, the son of the 1st respondent, deposed that when P.W. 25 visited his factory on 3rd March 1955 at about 1 P.M., he enquired after his father who was then at the house performing the obsequies of his mother. After making enquiries, P.W. 25 gave Ex. A100 after endorsing his signature thereon and asked him to have it cashed and send the money to the house of Jagarlamudi Chandramowli whereat he was then put up. That Bank is about a mile from the factory. He sent Ex. A100 to the Bank through R.W. 12, a clerk in Sreeramulu & Co., of which he is manager, to cash the cheque and send the amount to P.W. 25 and he did so. R.W. 12, who identified his signature in Ex. A100 corroborated the evidence of R.W. 11 in this respect and swore that after cashing Ex. A100 at the Bank he gave the money to P.W. 25 in the house of Jagarlamudi Chandramowli.

169. Curiously enough, the petitioner who was insisted upon the examination of P.W. 25 long after the close of the proceedings, did not choose to put him any question with regard to Ex. A100. He did not even confront him with the signature on the obverse side of that cheque. He could not possibly have had any apprehension that P.W. 25 would deliberately speak against him or would conceal the true state of affairs, especially having regard to the fact that the petitioner supported the candidature of P.W. 25 in the Parliamentary Elections held in 1957. It was left to the 1st respondent to clear up any mist of suspicion that might be attached either to Ex. A100 or to the signature of P.W. 25 on the back of it. And the learned counsel for the 1st respondent drew the attention of P.W. 25 to Ex. A100. P.W. 25 identified the signature on the obverse side of Ex. A100 as his and judging from the date on the cheque he stated that it appeared to him that it was one of the cheques given to the Congress organization in his name, and his evidence in this respect is as follows:—

"When such cheques were received by me I used to inform the President of the Provincial Congress of the receipt of such cheques and follow his instructions as to their disposal. I cannot remember at this stage as to what specific purpose this particular cheque amount was then utilised."

In the re-examination, however, by the petitioner P.W. 25 was shown the signature of R.W. 12 and he stated that unless he saw the face of R.W. 12 it was not possible for him to say if he met him. Again, another question was put to him in the re-examination to the following effect:

"Can you tell me whether the cheque Ex. A100 which was issued in your name was in cancellation of a previous cheque issued in favour of the President, A. P. C. C.?"

and the answer of this witness was:

"After such a lapse of time, I cannot recollect off hand any such details."

This witness asserted that he never went to the National Tobacco Co. or any other Tobacco Company for the purpose of receiving any cheques, that he did not go to the National Tobacco Co. to receive Ex. A100, that he was not present in the premises of that Company when this cheque was issued, that he has no information at whose instance this cheque was issued and that he could not remember who brought this cheque to him. He was not able to recollect to whom he gave this cheque after endorsing his signature thereon and he does not remember how exactly the cheque was disposed of and for what purpose. Thus, the petitioner has failed to prove that after cashing this cheque on 3rd March 1955 P.W. 25 gave the amount to the 1st respondent. It was by a sheer accident that this cheque was cashed through one of the employees of the *vyyanka* of the 1st respondent. Thereby it is not reasonable to jump to the conclusion that the 1st respondent received this amount, especially having regard to the fact that by the date of the cashing of this cheque the elections were over and even the result of the election had been announced.

170. The question whether the signature in Ex. A100 is a genuine one is clinched by the evidence of P.W. 25, who identified it as his. By a comparison of this signature with the admitted signatures of P.W. 25 we are amply satisfied that it was P.W. 25 that endorsed his signature on Ex. A100. If the suggestion of the petitioner were accepted, it would mean that P.W. 25 did not pay any amount whatsoever to the 1st respondent but that the 1st respondent somehow manoeuvred to obtain Ex. A100 by some questionable means and cashed it after forging the signature of P.W. 25 thereon. Such a contention would knock the bottom out of the petitioner's case itself, and we really wonder why the petitioner has chosen to raise this contention, which is highly damaging to his own case.

171. Not satisfied with the examination of P.W. 25, the petitioner again got the case reopened for the examination of Sri B. Gopalareddi (P.W. 27), who was the President of the Andhra Provincial Congress Committee in 1955. While speaking to a resolution passed by the Provincial Congress Committee constituting a Finance Committee and deposing that P.W. 25 and Sri Sudarsanam were included in that Committee, P.W. 27 stated that that resolution was not given effect to. He never went and approached the National Tobacco Co., for contribution to the Congress Party. Nor did he collect any subscription for the Congress at Guntur. He was unable to recall to memory if he received a cheque for Rs. 2000 dated 8th February 1955 from the National Tobacco Co., nor does he know who M. S. Narayanarao, the signatory in Ex. A142 is. The Andhra Provincial Congress Committee, which has its Head Office at Vijayawada has on its staff three Secretaries, one Manager and one Cashier and some *ad hoc* employees who were assisting in the election work. The cheques sent to the Provincial Congress Committee would be dealt with by the Office itself. He had had personally nothing to do with the finances of this Committee as Sri Baruwa, a member of the All India Congress Committee, had been deputed by the Congress High Command to be in charge of the finance and publicity. He did not even step into the premises of the office of the Provincial Congress Committee subsequent to 29th February 1954 as he was busy in his own election campaign, having stood as a candidate for two constituencies in his home district Nellore. This witness is positive in his assertion that the 1st respondent never approached him for financial assistance for his election. During the election period this witness was not operating upon the Banks as Sri Baruwa was in charge of the election.

172. We learn from the evidence of P.W. 2 that the National Tobacco Co. issued a cheque in favour of the 1st respondent for a sum of Rs. 300 on 29th January 1955. The counterfoil of that cheque is marked as Ex. A13 (b). The entry in the cash book of this company, Ex. A85, dated 29th January 1955 shows that this amount of Rs. 300 was paid to the 1st respondent by means of a cheque as per the sanction of the Leaf Manager. The purpose of this payment is not mentioned in the accounts, though, according to the evidence of P.W. 2, generally the purpose with regard to each disbursement would be mentioned. In the debit entry the purpose of the issue of the cheque for Rs. 2000 is mentioned as contribution to the Andhra Provincial Congress Committee. P.W. 2 who issued this cheque could not say for what purpose this payment was made to the 1st respondent. He does not even remember to whom he delivered the cheque. The 1st respondent has no account with this company. This payment of Rs. 300 is not adverted to either in the petition or in the list of particulars appended thereto. This cheque Ex. A99 is a crossed one and as the endorsement on the overse of it shows it was endorsed by the 1st respondent in favour of his son, R.W. 11. R.W. 11 has deposed that he cashed it on the strength of his current account with the Canara Industrial and Banking Syndicate and drew the amount on 5th February 1955 and eventually paid it to his father. The entries in his pass book Ex. B46 would show that a sum of Rs. 300 was credited in his current account on 1st February 1955 and he was paid this sum on 5th February 1955. Thus, it is proved that the 1st respondent did receive this sum of Rs. 300 on 5th February 1955. But the further case of the petitioner that this sum was given to the 1st respondent by this Company by way of contribution to his election expenses remained unproved, and no reference is made to this contribution to his election expenses in the petition. According to the evidence of the 1st respondent, this sum of Rs. 300 was given to him by the National Tobacco Co. for the purpose of providing poor students, who are fed in the *Anna Dana Sangham*, with books and school fees and that such casual subscriptions collected for rendering assistance to the poor boys in respect of school fees, books etc., would not be entered in the accounts of the *Anna Dana Sangham*. Taking advantage of this positive evidence, the petitioner sought to bank upon it by contending that this act of charity indulged in by the 1st respondent on the eve of the elections does amount to bribery. This is entirely a new ground of attack not even whispered to in the petition and the 1st respondent had had no opportunity to meet it.

173. The 1st respondent who has been looking after the charitable institution *Anna Dana Sangham*, Guntur, which is providing free meals for the poor students, might have been now and then collecting donations from those who are charitably disposed with a view to provide books and school fees for those school students. He is not to refrain from doing that which he might have legitimately done simply because he had filed his nomination paper to contest the election. Besides, he did this charitable act not from out of his own funds but from the donation received by him from the National Tobacco Co. He was, therefore, only a distributor of the funds supplied to him by a philanthropic firm and the credit for this charity would go not to the 1st respondent but to the donor firm. As such, it can by no means be held that the 1st respondent made any gift to charity having in his mind the coming elections and with a view to make himself popular among the voters of the constituency. What is intended is that acts done with the specific object of influencing the minds of the voters should be prohibited. It is never intended to prohibit an act done to a person, kind and good in itself, merely because it may make the person favourable to the candidate doing it. Besides, the poor students who were benefitted by this act of charity are not voters at all. Nor is there any evidence to show that they worked for any candidate in the election. What can be said to have been proved is that the 1st respondent, in his capacity as the Secretary of a charitable insti-



tution run for the benefit of the poor students, collected donations, as he was wont to do, for the purpose of providing those poor students with books and school fees. The sum so collected and distributed by him can by no means be held to be excessive. If small amounts are distributed among poor persons who are not voters, it will not amount to bribery. We have no hesitation, therefore, in discountenancing this new ground of attack.

174. It is the case of the petitioner that besides the various items of subscription received from the merchants of Guntur as set out in Part VI of the list of particulars, large amounts were got by Messrs. Patil and Dhebar and distributed among the Congress candidates and the amounts thus realised, including the amounts collected from the factory proprietors and other individuals, exceeded Rs. 50,000 and that most of the amount was spent in procuring votes. Thus, the 1st respondent is indicated of the major corrupt practice which falls under section 123 (7) of the Act on the allegation that he spent for his election more than the amount prescribed, *i.e.*, Rs. 8000. The burden of proof lies heavy upon the petitioner. But save making a vague allegation that a sum of Rs. 50,000 was spent by the 1st respondent for this election, no details are given either in the petition or in the list of particulars as to how and for what purpose and at what times and places any amount in excess of that shown in the election return was spent. In a case decided by the Supreme Court in *Bhikaji Keshao Joshi and another v. Brijlal Nandlal Bivani and others* (1) the petitioner therein alleged as follows:—

“1st respondent spent lakhs of rupees for his election transgressing the prescribed limit of Rs. 6000. He has given a totally untrue return of election expenses. This is in contravention of law.”

While considering whether this allegation satisfies the requirements of s. (82) (2) of the Act, their Lordships observed as follows:—

“Section 83 (2) requires not only what may reasonably be considered “full particulars” having regard to the nature of each allegation, but enjoins in terms that the following particulars should also be given:—

- (i) Names of parties alleged to have committed the corrupt or illegal practice.
- (ii) The date of the commission of each corrupt or illegal practice.
- (iii) The place of the commission of each such corrupt or illegal practice.

There can be no reasonable doubt that the requirements of full particulars is one that has not got to be complied with with sufficient fullness and clarification so as to enable the opposite party fairly to meet them and that they must be such as not to turn the enquiry before the Tribunal into a rambling and roving inquisition. On a careful scrutiny of the list in Schedule A we are satisfied that none of the items except that which is set out in item No. 1, in para 1 can be said to comply with the requirements of section 83 (2).”

175. Sri B. Gopala Reddi who was examined by the petitioner as his 27th witness, categorically stated that Messrs. S. K. Patil and U. N. Dhebar and other Congress leaders who toured in the Andhra State during the elections did not bring any money with them. Sri Barua, a member of the All India Congress Committee, had been deputed by the Congress High Command to be

in charge of elections held in 1955 in the Andhra State. His attention was drawn to the ledger Ex. A148 and the corresponding day book Ex. A149 maintained by the Office of the Andhra Provincial Congress Committee. Reliance is placed upon three entries in the ledger dated 2nd March, 1955. Those entries are:—

- (1) By cheques issued to several .. Rs. 2,55,200 (Ex. A148-a).  
candidates.
- (2) By cheques issued to District .. Rs. 18,800 (Ex. A148-b).  
Congress Committees.
- (3) Personal account of G. .. Rs. 1,13,000 (Ex. A148-c).  
Subrahmanyam.

The corresponding day-book entries Exs. A149-a, A149-b and A-149-c, read as follows:—

- (1) By cheques issued to several .. Rs. 2,55,200.  
persons and candidates as  
per statement of G. Sub-  
rahmanyam.
- (2) By cheques issued to Dis- .. Rs. 18,800 (Ex. A148-b).  
trict Congress Committees  
as per statement of G. Sub-  
rahmanyam.
- (3) By cheques issued to .. Rs. 1,13,000.  
personal account of G. Sub-  
rahmanyam as per his state-  
ment.

The issue of these cheques relates to a date long subsequent to the date of the polling. There is nothing to show in these accounts that the Andhra Provincial Congress Committee paid any money to the 1st respondent during the relative period before the elections. Ex. A148(d) at pages 31, 32 and 33 of Ex. A148 is the khata maintained in respect of the General Elections. It shows that on 29th December, 1954 certain amounts ranging from Rs. 500 to Rs. 1,000 were contributed to the District Congress Committees functioning in the various districts in the Andhra State and that the Guntur District Congress Committee received a sum of Rs. 1000. This was for carrying on election propaganda in the district by the Congress Committee. There are no debit items for the month of February 1955 and it is only on 2nd March, 1955 that certain cheques were issued to the Congress candidates and also to the District Congress Committees. It is not the case of the petitioner that the 1st respondent received any amounts from the Provincial Congress Committee on 2nd March, 1955. These account books totally belie his contention in this respect.

176. According to the evidence of P.W. 27, a Finance Committee has been constituted by means of a resolution in the initial stages of the election campaign and in that committee had been included P.W. 25, Sri Maddi Sudarsanam and others. But that resolution was not given effect to. P.W. 27 is positive in his assertion that he did not collect any subscription for the Congress at Guntur, that he had nothing to do with the financial aspect of the campaign and that Sri Baruwa it was that was in charge of the finance and propaganda. We find, therefore, that it is not proved that the 1st respondent received any funds either from the Andhra Provincial Congress Committee or from the All India Congress Committee for the purpose of his election.

177. P.W. 25 would say that the subscriptions collected were intended for use by the Congress Organization for election purposes. He, however, added that some candidates were helped with the funds by the Organization, and proceeded to say,

"There are many tobacco firms in Guntur. I remember some donations were received from some firms and others also. Some moneys were given to some of the Congress candidates in Guntur District out of such donations. I cannot remember the names of the candidates to whom monies were given out of those donations because it was so long past."

The petitioner places undue emphasis on this statement. According to his contention, the 1st respondent was virtually an "uncertified insolvent" and as it is admitted by P.W. 25 that some moneys were given to some Congress candidates in the Guntur district out of such donations, an irresistible inference arises that the 1st respondent must have been one of those Congress candidates who were given moneys from out of such donations. An Ex. A15 shows, the total expenses incurred by the 1st respondent for his election purposes was but Rs. 6630-6-6. This sum includes Rs. 4960-13-6 which he had already paid and Rs. 1699-9-0 which is yet to be paid, towards Voucher No. 112 representing gasoline supply. It is averred in the petition that the 1st respondent was heavily indebted at that time and that execution proceedings were taken against him for huge amounts and that it was only on the assurance of his friends like Sri Sudarsanam and others that they would secure the necessary financial assistance by collecting subscriptions from the public that he launched upon this adventure. In his evidence the petitioner would say that at that time the 1st respondent had no funds of his own, and that he was in financial difficulties. In his cross-examination, however, he admitted that the 1st respondent is the proprietor of a rice mill and that he himself was indebted to him in a sum of Rs. 400 on a pronote.

178. From the evidence of the 1st respondent we learn that he has been carrying on business in rice mill since over 40 years. He was the Municipal Concillor of Guntur from 1930 to 1936 and from 1938 to 1947 he was the Chairman of the Municipal Council, during which regime he introduced various schemes for the amelioration of the town. Besides being the President of the Governing Body of the Women's College, he was the President of the Kanyaka Parameswari Choultry from 1928, Member of the Senate for two terms, General Secretary of the Guntur Anna Satram since 1932. He constructed a Satram at Budanapadu Road, another choultry at Bommuru near Bhadrachalam and yet another at Kedarnath. He is the President of the Kanyaka Parameswari Branch Satram of Bhadrachalam and is the Secretary of the Town Hall Committee. He is also the President of the Guntur District Rice Millers Association, President of the Sales Tax Assessee's Association and is Founder Member of the South Indian Oil Seeds Association at Madras. He is a Member of the Working Committee of the Andhra Chamber of Commerce, and a Member of the Srisailem Renovation Committee. He was awarded the title of Rao Bahadur in 1941-42 but he relinquished it in 1948.

179. The 1st respondent further says that he was involved in financial difficulties in 1951 on account of dispute with his partner Karamsetti Sambasivarao, who is also his sister's son. Consequently, he and his partner had to bring about a trust deed Ex. A93 dated 30th May, 1951 in favour of Messrs. Desiraju Hanumantha Rao, K. Kotayya and T. Venkata Narayana for the administration of their properties valued at one lakh of rupees. In this trust deed it is recited that the partnership business sustained loss on account of the sudden rise in prices and consequently there was heavy pressure from the creditors. But there is a categorical recital that the value of the properties owned by this partnership firm exceed the liabilities. With a view to save

their credit, these partners entrusted these properties to the trustees above-mentioned for the purpose of discharging the outstanding debts as set out in the B schedule of the document amounting in all to Rs. 50,183-13-9 as against the assets valued at one lakh of rupees. Having regard to the value of the assets as against the total of the liabilities, it can by no means be said that even in 1951 the 1st respondent was in involved circumstances. But, unfortunately for him, his partner and nephew filed a suit against him in O.S. No.106 of 1952, on the file of the Principal Subordinate Judge, Guntur. That suit was, however, compromised on 14th November, 1953 as per the terms of Ex. B37. The 1st respondent would say that during the pendency of that suit a Receiver was appointed by the Court who had leased out the rice mill at a rental of Rs. 1,800 per month and that he used to receive Rs. 1,200 per year from Court. He got the mill for himself according to the terms of the compromise. In addition to this rice mill he owns a factory in Madras and also some houses at Guntur. He gets Rs. 350 per month by way of rents. He paid income tax to the tune of Rs. 4,500 for the year 1954-55 and Rs. 19,000 for the next year. By 1955 his liabilities have been reduced to 25 to 30 thousand rupees and there was but one decree debt. Prior to the compromise, there was a composition scheme according to which the creditors accepted the principal amounts in discharge of their liabilities. The 1st respondent claims to have withdrawn from Court deposit 10 to 12 thousand rupees in December 1953 and in 1954. Thus, he was out of the woods by December 1953.

180. With a view to show that the 1st respondent was in involved circumstances even in 1955, the petitioner examined on his behalf Sri K. Venkata Subbarao (P.W. 24), a Member of the Guntur Bar. P.W. 24 issued on behalf of a Marwari firm, Baboothmal Phulchand & Co., Guntur, a registered notice Ex. A97 dated 11th August, 1955 to the 1st respondent demanding repayment of the sum covered by a pronote dated 9th March, 1950 and another sum covered by a pronote dated 8th March, 1954 together with interest thereon. The receipt of this notice is admitted by the 1st respondent and he issued a reply notice to P.W. 24 on 25th August, 1955. P.W. 24 would say that he received this reply notice while he was in the Bar Room, that the petitioner who was sitting by his side took it from him, retained it with him and returned it to him the next day. The petitioner took a photostat copy of this notice, which is marked as Ex. A102, and he relies upon a recital in this reply notice referring to a composition scheme whereunder all the creditors had agreed to take only the principal amounts and remit interest. We wonder how this document would show that the 1st respondent was in involved circumstances even in 1955, as it relates to the debts contracted, one in 1950 and another in 1954. The evidence of the 1st respondent that he had drawn from Court deposit large sums in December 1953 and 1954 remains uncontroverted. It cannot be said, therefore, that he had absolutely no funds when he ventured to stand as a candidate to contest the elections. There was no need for him to depend upon public subscriptions or upon his friends for meeting his election expenses.

181. What the petitioner can be held to have proved is that the 1st respondent received a sum of Rs. 300 from the National Tobacco Co. on 29th January 1955 and we have the explanation of the 1st respondent for that amount, according to which it was meant only as a donation to help some poor students and he spent that amount for that specific purpose and not for his election purposes. The petitioner has failed to prove that the 1st respondent received Rs. 2,000 or any amount from the National Tobacco Co. before the elections. He, however, wanted to establish a connection between the 1st respondent and the cashing of the cheque Ex. A100 by a *gumastha* of his *viyyanka*. But that was on 3rd March, 1955. It is not the case for the petitioner that the 1st respondent spent any amount towards his election expenses subsequent to 18th February 1955. Even if it were conceded for argument's sake that the

1st respondent received these sums for election purposes, it is incumbent upon the petitioner to prove that these sums were actually spent by the 1st respondent for his election expenses and that the total amount so spent by him exceeded the prescribed limit and that by not showing these amounts in the "receipts" column in Ex. A15 the 1st respondent is guilty of a corrupt practice justifying the setting aside of his election.

182. S. 76 of the Act provides for the submission of return of election expenses within the prescribed time and it states:

*"Return of Election Expenses—*

- (1) Within the prescribed time after every election there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate, a return of the election expenses of that person signed by him and his election agent.
- (2) Every such return shall be in such form and shall contain such particulars as may be prescribed, and shall be accompanied by declarations in the prescribed form by the candidate and his election agent made on oath or solemn affirmation before a Magistrate.
- (3) \* \* \*

Section 77 runs as follows:—

*"Maximum Election Expenses &c.*

The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with elections shall be such as may be prescribed."

S. 77 has to be read with Rule 117 of the Rules framed under the Act, which, in its turn, refers to the maximum fixed in Schedule V. It is not denied that Rs. 8000 is the maximum limit of expenses prescribed for an election to a State Assembly in the Andhra State in a single member constituency. Section 100(2) (b) of the Act lays down that a Tribunal shall declare the election of the returned candidate to be void if he commits any of the corrupt practices described under s.123 of the Act. The corrupt practice relating to election expenses comes under s.123(7) and it reads as follows:—

"The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule made thereunder."

Section 124 deals with minor corrupt practices and according to s. 124(t),

"the making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return"

is a minor corrupt practice.

183. Next we come to s. 125 of the Act, which reads as follows.

"The following shall be deemed to be illegal practices for the purposes of this Act:—

- (1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

*Explanation.*—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause."

184. Section 140 sets out corrupt and illegal practices entailing disqualification and it reads as follows:—

"(1) The following corrupt or illegal practices relating to elections shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:—

- (a) corrupt practices specified in section 123 or section 124, and
- (b) illegal practices specified in section 125.

(2) The period of such disqualification shall be six years in the case of a corrupt practice, and four years in the case of an illegal practice, counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act".

From these sections it is clear that if a major corrupt practice under s. 123(7) of the Act is committed, the election is *per se* void, and the further question whether the election is materially affected or not would not arise. But, in the case of a minor corrupt practice under s. 124(4) the petitioner has to show not merely that the corrupt practice alleged has been committed, but he must further show that the election was materially affected thereby.

185. According to the mandatory provisions of s. 83(2) the petitioner must give a list of full particulars showing the names of the parties alleged to have committed such corrupt practices and also the date and place of the commission of each of such practices. The incurring of expenditure by a candidate beyond the limits prescribed under the Act or Rules framed thereunder is a corrupt practice coming under s. 123(7) of the Act. It is, therefore, incumbent on the petitioner to give in the list of particulars full details of the alleged items of expenditure not shown in the election return filed by a returned candidate and also the date when and the place where such expenditure was incurred. He must further show that if such expenses were added to the return of election expenses submitted by the returned candidate, it would exceed the prescribed limit. In a case coming under s. 124(4) the corrupt practice is not the incurring of expenditure, but it is the making of a false return of expenditure. S. 44 of the Act enjoins that

"Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed."

Be it noted that this section refers only to particulars of expenditure and not to particulars of receipts of money by the candidate or the sources from which he incurred the expenditure. Likewise, Rule 111 of the Rules framed under the Act lays emphasis on the expenditure and not on the receipts and it reads thus:—

"The books of accounts to be kept by an election agent under section 44 shall contain a statement:—

- (a) of all payments made or authorised by the candidate or by his election agent or made on behalf of the candidate or in his interests by any other person with the consent of the candidate

or his election agent for expenses incurred on account of, or in connection with, the conduct and management of the election, and

- (b) of all unpaid claims in respect of such expenses of which the candidate or his election agent is aware."

Rule 112 which deals with the return of election expenses lays down:—

*"Return of Election Expenses"*

- (1) The returns of election expenses under Chapter VIII of Part V of the Act shall be lodged with the Returning Officer within 45 days from the date of the publication under section 67 of the result of the election to which the expenses relate.
- (2) Every such return shall be in Form 26 and shall contain the particulars specified in paragraphs 1 and 2 of Schedule IV and shall be accompanied by the declarations referred to in sub-section (2) of section 76. The said declarations shall be in the forms contained in paragraph 3 of the said Schedule and shall be written on papers stamped with non-judicial stamps of the value of Rs 2 each.
- (3) and (4) \* \* \*

Paragraph 1 of Schedule IV requires that the receipts should be shown under a separate head and paragraph 2 requires that the expenditure should be shown under the several heads mentioned therein. The form of declaration mentioned in Schedule IV requires that, while affirming to the truth of the return of election expenses, the election agent must further affirm that "except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purpose of candidature".

186. The expression "election expenses" has nowhere been defined under the Act. That expression denotes the amount that has been spent for purposes of election. Section 44 of the Act and Rule 111 refer only to the expenditure incurred by the candidate. Form 26 and Schedule IV refer to the giving of information regarding the receipts in respect of the expenses incurred for the election. But even here the emphasis is more upon the expenditure rather than on the receipts. In our view, therefore, what appears to have been materially required under the Act are the particulars relating to the election expenses rather than the source of money from out of which the expenses have been incurred.

187. Sri Raghavayya, the learned counsel for the 1st respondent, went the length of contending that the prescribed form No. 26, which insists upon showing the receipts, is not in consonance with the spirit of the Act and is, therefore, *ultra vires* of the rule making power conferred under s. 169 of the Act, which says that the Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act and that in particular and without prejudice to the generality of the foregoing power, such rules may provide for any matter required to be prescribed by this Act. The disclosure of the source of money in the return by a candidate is not necessary for the purpose of the Act, which only requires the candidate to show the items of expenditure incurred by him. We are not prepared to go the length of holding that the prescribed Form No. 26 is *ultra vires* of the rule-making power of the Central Government. But, in our view, the non-filling up of the "receipts" column is only a violation of the rule and not of the provisions of the Statute itself. The non-compliance with any rule or order made under this Act or by any mistake in the use of the prescribed form is, no doubt, under s.100(2)(c) of

the Act a ground for declaring an election to be void. But it must be shown as a condition precedent that by reason of such non-compliance the result of the election has been materially affected.

188. The crucial question for consideration is, whether the 1st respondent has committed a major corrupt practice within the meaning of s.123(7) of the Act by spending for his election more amount than the prescribed limit of Rs. 8000. According to the petitioner's contention, the 1st respondent spent more than Rs. 50,000 for his election and most of this amount was spent in procuring votes. We have already discountenanced this plea of bribery. His further contention is that the 1st respondent purchased more than 600 flags and gave to each person who raised the flag on his building or shop at the rate of Re.1. Against this item of expenditure the 1st respondent has shown about Rs. 400 in his return of election expenses. There is no proof that the 1st respondent purchased more than 6000 flags and had them hoisted by paying a bribe of Re. 1 per head to any citizen of Guntur. Objection is taken to the fact that only a consolidated receipt for hiring taxies was filed and that no vouchers were filed. Along with the return of election expenses the 1st respondent filed a consolidated receipt for the taxi hire paid by him for the various taxies. A sum of Rs. 150 is shown in Part A of the return as having been paid to a hotel, Vijayalakshmi Restaurant, towards "tiffin books". No vouchers were filed. According to the evidence of the 1st respondent, these books had been issued to his agents and workers. He had opened about 10 to 14 election offices and each office was under the charge of one man and there were in all seven paid *gumasthas*. He himself purchased tiffin tickets on the 17th and distributed them on the 18th among his workers and he paid Rs. 150 for these tiffin tickets. He did not take any voucher for the tiffin books. A sum of Rs. 150 spent to provide refreshment to the workers on that hectic polling day can by no means be said to be unreasonable and having regard to the smallness of the amount, the failure on the part of the 1st respondent to take vouchers cannot be held to be an irregularity. Ex.B36 shows that the 1st respondent paid taxi hire at the rate of Rs. 50 per taxi and that in the case of one taxi he paid Rs. 40. This receipt contains the signatures of the various taxi owners. The contention of the petitioner that the 1st respondent paid as hire to each taxi at the rate of Rs. 70 remains but a bare assertion not propped up by any proof. The evidence of the 1st respondent read with the voucher show that he paid only Rs. 50 per taxi, though in one case he paid Rs. 40. No exception can, therefore, be taken to the voucher Ex.B36. The petitioner has failed to prove that any item of expenditure as given in Ex.A15 is false or that the election return itself is false in any material particular.

189. Comment was, no doubt, made on the non-production of the account books by the 1st respondent, though section 44 of the Act requires that every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed. The 1st respondent did not appoint any election agent as has been provided under section 40, but he appointed himself as his own election agent. As such, he cannot plead that he is not obliged to maintain accounts as required under section 44. But no objection was taken in the petition with regard to the non-maintenance of accounts and the 1st respondent swore that the return is based upon the various vouchers produced by him. We cannot, therefore, accept the contention of the petitioner that the 1st respondent had deliberately suppressed his accounts. This contention with regard to the non-maintenance of accounts is belated and cannot be countenanced.



190. As has been observed by their Lordships of the Supreme Court in *Vashist Narain versus Debi Chandra* (1) the onus of proving that the result of the election has been materially affected lies upon the petitioner and if the petitioner fails to adduce satisfactory evidence to enable the Court to find in his favour on this point the inevitable result would be that the Tribunal would not interfere in his favour. The language of section 100 (2) (c) is too clear for any speculation about possibilities. The finding of the Tribunal that the result of the election has been materially affected should not be speculative and conjectural. It must be based upon evidence. The practical bearing of a distinction which is mandatory and one which is directory is that while the former must be strictly observed, in the case of the latter it is sufficient if it is substantially complied with. It is well established that an enactment in form mandatory may in substance be directory and that the use of the word "shall" does not conclude the matter. Non-compliance with the provisions or rules must be so vital as to result in the result of the election having been materially affected. It must first be shown that there has been non-compliance with the provisions. It must further be shown that the result of the election has been materially affected. The two conditions are cumulative and they must both be established. The burden of establishing them is on the person who seeks to have the election set aside.

191. The petitioner has totally failed in establishing that the 1st respondent has been guilty of spending more amount than what he has shown in his return. The receipt of Rs. 2000/- under Ex. A100 was only after the election, even if it can be held that the 1st respondent it was that received this amount. To connect this receipt with the election expenses would only be speculative and conjectural. The receipt of Rs. 300/- is, no doubt, admitted by the 1st respondent. But he says that it was not used for his election expenses but that he distributed it among the poor students. Even if it can be held that he spent this amount for his election expenses, if this amount were added to the amount shown in the return he would still be within the prescribed limit. Our finding under issue 12 is in the negative. Under issue 13 we hold that it is not proved that the 1st respondent did receive the donations mentioned in Part VI of the list of particulars and that he did not spend any money over and above what is shown in Ex. A15.

192. Thus, it will be seen that the various charges levelled against the 1st respondent remain unproved. There is yet another charge that the 1st respondent connived at the removal of ballot papers during polling hours outside the polling station in order to obtain those papers from those persons and to make use of them for the benefit of the 1st respondent. In Part IV of the list of particulars it is averred that this malpractice was committed in the polling booths in three localities, *Koratipadu*, *Nehrunagar* and *Vaddegudem*. The petitioner, however, did not join issue with regard to this wild allegation, nor did he let in any evidence in support of this contention. In para 10 of his petition he even asks for the opening of the ballot boxes and to direct general scrutiny and recount. He alleges that the scrutiny of the ballot papers was done by several assistants of the Returning Officer and that it was physically impossible for the petitioner and his counting agents to note the particulars of the improperly accepted votes. But he did not take any issue on this contention and did not even advert to it in his evidence. It will be seen from the result of voting that the 1st respondent had secured 4274 votes more than the total number of votes secured by the petitioner. The Communist candidate, i.e., the 2nd respondent, who was a close runner-up, having secured 11998 votes would not certainly have kept quiet if there was any *iota* of truth in the contention relating to the various corrupt practices alleged to have been committed by the 1st respondent.

193. In this connection, it is interesting to note that four days after the election, i.e., on 22nd February 1955, the Guntur Town Praja Socialist Party, of which the petitioner is the President, published a pamphlet Ex. B1 purporting to set out certain unusual happenings in the election. According to the averments made in this pamphlet, the leaders who were ostensibly supporting the 1st respondent's candidature had no genuine intention to secure his success. On the other hand, their sympathies were all with the Communist candidate, the 2nd respondent, and they were bent upon somehow defeating the petitioner. On account of their manoeuvres most of the Vysya leaders abstained from taking part in the election, and those that took part in the election lent their support to the petitioner without yielding to communal passions. This party, therefore, offered their congratulations to such supporters. It is even averred in this leaflet that the 1st respondent, after realising the conspiracy hatched against him, in the end expressed his good-will to the candidate of the Praja Socialist Party. Not a whisper is made in this leaflet to any corrupt practices alleged in the petition. The 2nd respondent who is naturally interested in supporting the petitioner in this proceeding and in having the election of the 1st respondent set aside, did not even participate in this proceeding, he having remained *ex parte*. The evidence adduced on behalf of the petitioner is highly interested and even that interested testimony has been successfully rebutted by the 1st respondent. Except P.Ws. 1 to 4, all the other witnesses examined for the petitioner are his staunch partisans. P.Ws. 10 to 12, 16, 17, 19 and 20 had been set up by the Praja Socialist Party for Municipal elections. P.Ws. 6, 10, 13, 17, 19, 20 and 24 are the agents of the petitioner, P.Ws. 18 and 19 are his *gumasthas*, and P.Ws. 18, 20 and 23 are some of those that issued pamphlets espousing the cause of the petitioner. Even the evidence of these interested witnesses is surcharged with various discrepancies and it does not consort with the averments made in the petition.

194. *Issues 15 and 16.*—We find both these issues against the petitioner.

195. *Issue 17.*—In the result, the petitioner fails and his petition is dismissed with costs, which we assess at Rs. 300/- inclusive of counsel's fee, payable to the 1st respondent. The other contesting respondents will bear their own costs.

Dictated to shorthand-writer and pronounced in open Court, this 28th day of October 1957.

(Sd.) T. H. M. SADASIVAYYA,

*Chairman.*

(Sd.) C. NARASIMHACHARYULU,

*Judicial Member.*

(Sd.) M. SITHARAMAYYA,

*Advocate Member.*

[No. 82/10/55/12316.]

By Order.

DIN DAYAL, Under Secy.